

The Hon'ble MR. EARLE said:—"The Hon'ble Dr. Asutosh Mukhopadhyaya and the Hon'ble Babu Bhupendra Nath Basu have both made observations in regard to the Provincial and Subordinate Educational Services, and have asked that the prospects and position of members of those services may be improved. In making these remarks, both these Hon'ble Members have, I think, been a little ungrateful and a little unmindful. On the 28th March, 1903, I stated in this Council that the question whether it was practicable to improve the prospects of the Provincial and Subordinate Educational Services was at that time under the consideration of the Lieutenant-Governor; while, again, so recently as the 10th of February last, I stated that this question had been referred by the Lieutenant-Governor to the Government of India and was under the consideration of that Government. I stated that it was inexpedient, at that time, to make any pronouncement regarding the views of this Government on the subject; but that information would be supplied at a later date. I can say no more on the present occasion. I can only say that I hope that the scheme which has been submitted to the Government of India will be sanctioned by that Government, and that, if so sanctioned, it will give satisfaction.

"Both the Hon'ble Members above referred to have also mentioned the subject of the reduction which has been made in the number and value of Junior and Senior Scholarships awarded as the result of the Entrance and F.A. Examinations of the Calcutta University. In regard to this subject, I stated in this Council on the 14th of August last that the reduction referred to had been made at the instance of the Government of India, who, in reviewing the Report on the Progress of Education in India from 1892-93 to 1896-97, had observed that the amount spent on these Scholarships in Bengal had exceeded the 2 *per cent.* limit fixed by the Education Commission of 1881. Now that efforts are being made in so many directions to make improvements in respect of education, it may be found possible to re-consider the subject. The matter will therefore be further examined.

"The Hon'ble Babu Bhupendra Nath Basu has observed that the expenditure in respect of Education budgetted for the year 1904-1905, *viz.*, Rs. 5,76,000, is totally inadequate for a population of 75 millions of people. I quite agree with the Hon'ble Member that it would be very much better if it were possible to make this figure very much larger than it is. He seems, however, to have entirely overlooked the fact that the total expenditure in the year 1901-1902 was Rs. 42,73,000; that it rose in the year 1902-1903 to Rs. 48,60,000; and that again in the current year there is a further increase of 5 lakhs and 16 thousand of rupees. These figures prove conclusively the increased attention that is being paid by Government to Education in all its branches; and it is a little surprising to find that no acknowledgment of this fact is made. The Hon'ble Member also said that far too little money was spent upon primary education. I entirely agree with him that the amount so spent in this Province is inadequate. The Hon'ble Member has, however, taken no account of the fact that it is barely 18 months since Government made a grant of 4 lakhs to District Boards for expenditure on this class of Education. The Government of India has made a special grant of 10 lakhs to this Government for expenditure on Educational purposes; and no less than the large sum named has been assigned entirely for primary education. As, however, I have indicated above, a much larger expenditure under this head is still required; and I hope that before long it will be possible to make further allotments for the purpose.

"I now turn to the remarks made by the Hon'ble Rai Tarini Pershad, Bahadur. The Hon'ble Member observes that a sum of Rs. 1,14,000 is provided in the revised estimate for 1903-1904 under the head of 'Land Records and Agriculture,' and that this amount is described on page 7 of the Financial Statement as providing for 'Temporary Establishments in Districts.' He asks for an explanation on this point. The reply is, that the increased expenditure was incurred in respect of temporary establishments required for the purpose of re-writing the Land Registration Registers in the districts of Cuttack, Balasore and Puri.



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The Calcutta Gazette.

WEDNESDAY MARCH 2, 1904.

PART III.

Act of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honour on the 16th February, 1904, and, having been assented to by His Excellency the Viceroy and Governor General on the 27th idem, is hereby published for general information :—

BENGAL ACT NO. I OF 1904.

An Act to amend the Bengal Tramways Act, 1883.

WHEREAS it is expedient to amend the Bengal Tramways Act, 1883; Ban. Act III of 1883.

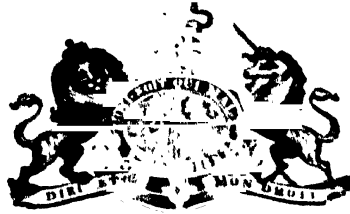
It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bengal Tramways (Amendment) Act, 1904.

Amendment of Ban. Act III of 1883. 2. After the word "shorter," in the proviso to section 41 of the Bengal Tramways Act, 1883, the words "or longer" shall be inserted.

CALCUTTA; }
The 1st March, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council.



The Calcutta Gazette.

WEDNESDAY, MARCH 9, 1904.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honour on the 10th February, 1904, and, having been assented to by His Excellency the Viceroy and Governor General on the 1st March, 1904, is hereby published for general information :—

BENGAL ACT No. II of 1904.

An Act for the regulation of Public Parks in Bengal.

WHEREAS it is expedient to protect public parks and gardens in Bengal from injury, and to secure the public from molestation and annoyance while resorting to such parks and gardens ;
It is hereby enacted as follows :—

Short title and application. 1. (1) This Act may be called the Bengal Public Parks Act, 1904.

(2) It applies to the public parks and gardens mentioned in the Schedule, and may be applied to any other public park or garden in Bengal by order of the Local Government published in the Calcutta Gazette.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "park" means any public park or garden to which this Act applies by virtue of section 1, sub-section (2), or any order published thereunder ;

(b) "superintendent" means the person in executive charge of a park ; and, for the purposes of section 6, sub-section (2), includes also—

(i) an assistant superintendent of a park, and

(ii) any member of the Managing Committee (if any) of a park ;
and

*(The Bengal Public Parks Act, 1904.—
sections 3, 4.)*

(c) "park-durwan" means any person appointed by the superintendent, or by the authority to whom the superintendent is subordinate, to act as a durwan of the park.

Power to extend boundaries of park. 3. The Local Government may, by notification in the Calcutta Gazette, declare that any specified land, bridge or pontoon shall, for the purposes of this Act, be deemed to be included in any park.

Power to make rules. 4. (1) The Local Government may make rules for the management and preservation of any park, and for regulating the use thereof by the public.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) regulate the admission of persons, horses and ponies, and carriages, palanquins and other conveyances, into the park, and prescribe fees to be paid therefor;
- (b) prohibit or regulate the bringing of dogs, motor cars, bicycles or tricycles into the park;
- (c) prohibit the doing of all or any of the following things by persons other than employes of the park, that is to say, plucking or gathering anything growing in the park, breaking trees, branches or plants, cutting names or marks on trees, disfiguring buildings, furniture or monuments, removing or disfiguring labels or marks attached to trees or plants;
- (d) prohibit the purchase of any produce of the park otherwise than from the superintendent or some other authorised person;
- (e) prohibit shooting, bird-nesting, the catching of butterflies, or any act of cruelty;
- (f) prohibit or regulate fishing or boating, and prescribe fees to be paid by persons obtaining permission to fish or to use boats;
- (g) prohibit bathing or the pollution of water by any other means;
- (h) prohibit the grazing of horses or ponies;
- (j) prohibit the teasing or annoying of animals or birds kept in the park;
- (k) prohibit the commission of any nuisance, or the molestation or annoyance of any person resorting to the park.

(3) In making any rule under this section, the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

(4) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

(5) All rules made under this section shall be published in the Calcutta Gazette.

*(The Bengal Public Parks Act, 1904.—
sections 5-9.)*

Exhibition of
copies of noti-
fications and
rules in park

5. One or more copies, in English and in one or more vernacular languages, of every notification published under section 3, and of all rules made under section 4 for observance by persons resorting to a park, and for the time being in force, shall be put up in the park in such conspicuous manner as the superintendent may deem best calculated to give information to such persons.

Refusal of
offender to
give name and
residence.

6. (1) If any person who, in the presence of a park-durwan in uniform, has committed or has been accused of committing a breach of any rule made under section 4, and who is unknown to such durwan, refuses, on demand of such durwan, to give his name and residence, or gives a name or residence which such durwan has reason to believe to be false, such person may be detained by such durwan in order that his name or residence may be ascertained.

(2) When any person is detained under subsection (1) he shall forthwith be taken to the superintendent; or, if the superintendent be not present in the park or its immediate precincts, such person shall be taken to the nearest police-station, or, if he so requests, to the nearest Magistrate having jurisdiction to try him.

(3) If the true name and residence of any person so taken to the superintendent be not ascertained within a reasonable time, the superintendent shall forthwith send for an officer of police, and shall detain the offender until the arrival of such an officer, and shall then deliver him into the custody of such officer to be taken to the nearest police-station.

(4) If the true name and residence of any person taken to a police-station under this section be not ascertained within a reasonable time, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction to try him.

(5) When the true name and residence of any person detained under this section have been ascertained, he shall be allowed to depart.

(6) No person shall be detained under this section for a longer period than twelve hours.

Superintendent and park-durwan deemed "public servants."

7. Every superintendent and park-durwan shall, for the purposes of the Indian Penal Code, XLV of 1890 be deemed to be a public servant.

General powers, duties, etc., of park-durwan.

8. Every park-durwan shall, in addition to any powers and immunities specially conferred on him by this Act or by rules made hereunder, have, within the limits of the park to which he is appointed, all such powers, privileges and immunities, and shall, within the said limits, be liable to all such duties and responsibilities, as a police-constable has and is liable to within the limits of the police-station in which such park is comprised:

Provided that every park-durwan shall be subordinate to the superintendent.

General powers, etc., of police-constables.

9. Every police-constable employed within the limits of a police-station shall have, within any park comprised in such limits, the powers, privileges and immunities conferred on a park-durwan by this Act and any rules made hereunder.

(*The Bengal Public Parks Act, 1904.—Schedule.*)

THE SCHEDULE.

PUBLIC PARKS AND GARDENS TO WHICH THIS
ACT APPLIES IN THE FIRST INSTANCE.

[*See section 1, sub-section (2).*]

The Royal Botanic Garden, Sibpur.
The Zoological Garden, Alipur.
The Eden Gardens, Calcutta.
The Lloyd Botanical Garden, Darjeeling.
The Victoria Pleasance, Darjeeling.

CALCUTTA;
The 7th March, 1904.

}

F. G. WIGLEY,
Secretary to the Bengal Council.

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honour on the 18th February, 1904, and, having been assented to by His Excellency the Viceroy and Governor General on the 4th March, 1904, is hereby published for general information :—

BENGAL ACT No. III of 1904.

An Act to facilitate the family settlement of estates in Bengal.

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PART I.—*Short title and extent.*

SECTION.

1. Short title and extent.
2. Definitions.

PART II.—*Application for permission to make a first settlement of an estate.*

3. Who may apply for permission to settle an estate.
4. Signature, verification and contents of application.
5. Declarations and draft to accompany application in the case of an estate belonging to a joint Hindu family or to co-sharers.
6. Power to reject application.
7. Transmission and notification of application.
8. Rejection or approval of application after notification.
9. Rejection no bar to making fresh application.

PART III.—*Provisions to be contained in first settlements.*

10. Settlement of estates for three generations.
11. Further remainders.
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13. Supplementary settlement in respect of property.
14. Power to apply for permission to make a supplementary settlement in respect of persons.
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16. Procedure in dealing with applications under section 14 or 15.
17. Provisions as to fresh settlements.

PART V.—*Settlements generally.*

18. Approval, stamping and registration of settlements.
19. Approval, stamping and registration of instruments of surrender.
20. Bar to application of succession laws, in respect of property comprised in settlement.
21. Power of Local Government to grant certificate after death of tenant for life.
22. Notification of instruments of settlement and instruments of surrender or revocation of settlement.
23. Abrogation of inconsistent laws.

PART VI.—*Revocation, cancellation and amendment of settlements.*

24. Revocation of settlement by tenant for life.
25. Cancellation or amendment of settlement by Local Government.
26. Revival of incumbrances on revocation, cancellation or amendment of settlement.

**PART VII.—Rights and powers of tenant for life, and protection
of settled estates during his life.**

SECTION.

27. Right of tenant for life to profits of settled estate.
28. Restriction on alienation by tenant for life.
29. Sales by tenant for life.
30. Leases by tenant for life.
31. Saving of leases of raiyati holdings.
32. Bar to sale of settled estate in execution of decree.
33. Sale of settled estate for arrears of land-revenue, &c.
34. Procedure for recovery of such arrears.

PART VIII.—Miscellaneous.

35. Form, publication and duration of permissions granted by
Local Government.
36. Notifications how to be published.
37. Power to make rules.
38. Application of Court of Wards Act, 1879.
39. Saving of rights of secured creditors.

BENGAL ACT No. III of 1904.

An Act to facilitate the family settlement of estates in Bengal.

WHEREAS it is expedient to facilitate the making of family settlements of estates by landholders in Bengal;

And whereas, the Bengal Land-revenue Sales Act, 1859, the Indian Succession Act, 1865, the Court-fees Act, 1870, the Indian Limitation Act, 1877, the Probate and Administration Act, 1881, the Transfer of Property Act, 1882, the Succession Certificate Act, 1889, and the Indian Stamp Act, 1899, having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, to the passing of this Act;

III of 1859.
V of 1865.
VII of 1870.
XV of 1877.
V of 1881.
IV of 1882.
VII of 1889.
II of 1899.

55 & 56 Vict.
c. 14.

It is hereby enacted as follows:—

PART I.—Preliminary.

Short title and extent.

1. (1) This Act may be called The Bengal Settled Estates Act, 1904; and

(2) It extends to the whole of Bengal.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "estate" includes—

(i) immoveable property,

(ii) money, and securities for money, and

(iii) any jewellery or other moveable property which should, in the opinion of the Local Government, be treated as heirlooms;

(b) "settled estate" means an estate in respect of which a settlement made under this Act is for the time being in force;

(c) "settlor" means the person who makes a settlement under this Act;

(d) "first tenant for life" means the settlor;

(e) "second tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the first tenant for life, or who, on the surrender by the first tenant for life, takes his interest under the settlement;

(f) "third tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the second tenant for life, or who, on the surrender by the second tenant for life, takes his interest under the settlement;

(g) "tenant for life" means a first, second or third tenant for life;

(h) "son" includes a son born after the execution of a settlement, and, in the case of anyone whose personal law permits adoption, includes also a son—

(i) duly adopted, either before or after the execution of a settlement, by the adoptive father himself, or

(ii) duly adopted to her deceased husband, within five years after his death, by a widow, acting under authority, in writing and registered, lawfully conferred on her by him in that behalf;

(The Bengal Settled Estates Act, 1904.—Part II.—Application for permission to make a first settlement of an estate.—Sections 3, 4.)

- (j) "secured debt" means a debt, demand or claim which is secured by way of a mortgage, charge or lien on specified property and is primarily enforceable against such property;
- (k) "unsecured debt" means a debt, demand or claim (other than a secured debt) for any sum exceeding five hundred rupees, which is enforceable against the person or general property of the debtor;
- (l) "secured creditor" means a person who is entitled to enforce payment of a secured debt;
- (m) "unsecured creditor" means a person who is entitled to enforce payment of an unsecured debt;
- (n) "incumbrance" means a secured debt, or an unsecured debt, or both;
- (o) the expression "the Collector," when used with reference to any estate, means the Collector of the district in which the estate or any part thereof is situated; and
- (p) the expression "the Civil Court," when used with reference to any estate, means the principal Civil Court having original jurisdiction in the area in which the estate or any part thereof is situated.

(q) A person shall be deemed, for the purposes of this Act, to be "competent to contract" if he is of the age of majority according to the law to which he is subject, and is of sound mind, and is not disqualified from contracting by any law to which he is subject.

(r) All words and expressions used in this Act, which are defined in the Transfer of Property Act, 1882, shall have the same meaning as in that Act.

IV of 1882.

Part II.—Application for permission to make a first settlement of an estate.

Who may apply for permission to settle an estate.

3. (1) Any landholder may apply to the Local Government for permission to make a settlement of an estate under this Act,—

- (a) if he is competent to contract,
- (b) if he is in possession of the estate, either in his own right or along with or on behalf of others, and
- (c) if the estate is held in permanent, heritable and transferable right:

(2) Provided that no application may be made under subsection (1) in respect of any estate—

- (i) unless the applicant is solely entitled to the estate, or
- (ii) if the estate belongs to a joint Hindu family—unless the applicant is the *karta* or managing member of the family, or
- (iii) if the estate belongs to co-sharers—unless the applicant is a principal shareholder in the estate and has, by custom or with the consent of his co-sharers, the sole right of management over the estate.

Signature, verification and contents of application.

4. (1) Every such application must be in writing, and must be signed by the applicant and verified by him in the manner prescribed in section 52 of the Code of Civil Procedure for the verification of plaints.

XIV of 1882.

(2) Every such application must contain the following particulars, namely:—

- (a) a description of the estate, sufficient for its identification;
- (b) a statement of the income yielded annually by the property comprised in the estate, and the revenue, rates and taxes due to the Government or any Local Authority annually in respect of such property; and
- (c) a list giving a full and complete enumeration and description of all incumbrances held by secured and unsecured creditors, respectively, and enforceable against the applicant or the estate; with the name and address of each such creditor, and a correct statement of the amount due to each such creditor.

(The Bengal Settled Estates Act, 1904.—Part II.—Application for permission to make a first settlement of an estate.—Sections 5-7.)

Declarations with draft to accompany application in the case of an estate belonging to a joint Hindu family or co-sharers.

5. (1) If any estate in respect of which an application is made under section 3 belongs to—

- (a) a joint Hindu family, or
- (b) co-sharers,

the application must be accompanied by—

- (i) a sworn declaration by the applicant,—
 - in case (a), that he is the *karta* or managing member of the family, or
 - in case (b), that he is a principal shareholder in the estate and has, by custom or with the consent of his co-sharers, as the case may be, the sole right of management over the estate; and
- (ii) a sworn declaration, in case (a), by the other co-owners, or in case (b) by the other co-sharers, that they are willing to assent to the estate being settled under this Act; and

(iii) a draft of the proposed instrument of settlement.

(2) If any of the said other co-owners or co-sharers is, at the time when the application is made, a minor, a declaration under clause (ii) of sub-section (1) may be accepted if it is

made on behalf of such minor by the guardian of his property or (when a guardian of his property cannot lawfully be appointed) the guardian of his person, appointed or declared under the Guardians and Wards Act, 1890, or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed or declared the guardian.

(3) If any of the aforesaid other co-owners or co-sharers is, at the time when the application is made, a lunatic, a declaration may be accepted under clause (ii) of sub-section (1) if it is

made on behalf of such lunatic by his committee appointed under the Lunacy (Supreme Courts) Act, 1858, or the Lunacy (District Courts) Act, 1858, or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed the committee.

Power to reject application.

6. The Local Government may, in its discretion, and after such inquiry (if any) as it may think fit to make, by written order reject any application made under section 3.

Transmission and notification of application.

7. If any application made under section 3 is not rejected under section 6, and if the Local Government is satisfied that the conditions specified in section 3 are fulfilled, and that the provisions of sections 4 and 5 have been duly complied with,

the Local Government shall send a copy of the application, and of the declarations which accompanied it, as also a copy of the draft of the proposed instrument of settlement, to each creditor who is named in the application, and to each person who has made a declaration in pursuance of clause (ii) of section 5;

and, with the previous sanction of the Governor General Council, shall publish a notification—

- (a) setting forth the application [except the particulars inserted therein in pursuance of clause (b) of section 4] and the declarations which accompanied it;

calling upon all creditors, whether secured or unsecured, holding or entitled to incumbrances enforceable against the applicant or the estate to which the application relates, and all other persons interested claiming to be interested in the estate, to send to

(The Bengal Settled Estates Act, 1904.—Part II.—Application for permission to make a first settlement of an estate.—Part III.—Provisions to be contained in first settlements.—Sections 8-10.)

the Local Government written notice of their incumbrances and interests, respectively, within a period of six months from the date of the notification, and

- (c) intimating that any objections to the proposed settlement, whether urged by creditors or by other persons interested in the estate, which may be communicated to the Local Government in writing within the said period, will be duly considered.

Rejection or approval of application after notification.

8. (1) At any time after the expiration of the said period, and after considering any notices and objections received under section 7, and after such inquiry (if any) as it may think fit to make, the Local Government may, in its discretion, by written order, either—

- (a) reject such application, or
(b) grant permission to make the proposed settlement, in respect either of the whole of the property to which the application relates or of any part thereof :

Provided that, if any incumbrances have been set forth in the application or brought to the notice of the Local Government, such permission shall not be granted unless—

- (i) the incumbrances are first discharged, or
(ii) a condition is made for the insertion in the settlement of provisions, to be assented to by the creditors and approved by the Local Government, for the discharge of the incumbrances, or for their continuance, with or without modification, and for the payment of interest thereon.

(2) If the right of the applicant to make the settlement is disputed by or on behalf of any person interested or claiming to be interested in the estate, the Local Government may, if it thinks fit, refer the matter in dispute to the Civil Court for decision, before determining whether to reject the application or to grant permission to make the proposed settlement; and the Civil Court shall, in dealing with any such reference, follow the procedure prescribed in the Code of Civil Procedure for the trial of suits, so far as the same may be applicable.

XIV of 1900.

(3) Every decision by the Civil Court under sub-section (2) shall be deemed to be a decree within the meaning of the Code of Civil Procedure; and an appeal therefrom shall lie to the High Court.

XIV of 1904.

Rejection no bar to making fresh application.

9. The rejection under section 6 or section 8 of an application for permission to make a settlement of an estate under the foregoing provisions of this Act shall be no bar to the making of a fresh application in respect of the same estate, if the applicant shows sufficient reason for so doing.

PART III.—Provisions to be contained in first settlements.

Settlement of estates for three generations.

10. (1) Every settlement made under the foregoing provisions of this Act in respect of any estate shall provide that the estate shall be held for life—

- (a) by the settlor, as first tenant for life;
(b) and thereafter, by the second tenant for life, who shall be the eldest or only son of the first tenant for life;
(c) and thereafter, by the third tenant for life, who shall be the eldest or only son of the second tenant for life.

(2) Every such settlement shall further provide,—

- (a) if the estate is one to which the settlor was, immediately before the execution of the settlement, solely entitled—that, after the life of the third tenant for life, the eldest or only son of such tenant shall hold the estate absolutely;

(The Bengal Settled Estates Act, 1904. —Part III.—Provisions to be contained in first settlements.—Sections 11, 12.)

- (ii) if the estate belonged, immediately before the execution of the settlement, to a joint Hindu family—that, after the life of the third tenant for life, the eldest or only son of such tenant shall during his life be the *karta* or manager of the estate, but without prejudice to the rights of any persons who, but for the settlement, would be co-owners of the estate; and
- (iii) if the estate belonged, immediately before the execution of the settlement, to co-sharers—that, after the life of the third tenant for life, the eldest or only son of such tenant shall have during his life the sole right of management over the estate;

but subject in each case to the terms of any fresh settlement made by a tenant for life in pursuance of permission granted under section 16.

(f) If the eldest or only son of the settlor has predeceased the settlor, or if the settlor desires to exclude such son from holding the estate on the ground of incapacity or defect of character which is proved by the settlor to the satisfaction of the Local Government, then, notwithstanding anything contained in the foregoing sub-sections, the Local Government may permit him to provide in the settlement—

- (i) that the second tenant for life shall be another son of the settlor, if he has another son, or the eldest or only son of the son who has predeceased the settlor or has been excluded as aforesaid, and
- (ii) that the third tenant for life shall be the eldest or only son of the second tenant for life, or the eldest or only son of the son who has predeceased the settlor or has been excluded as aforesaid.

(4) Any settlement made under the foregoing provisions of this Act may provide that any tenant for life may, with the previous sanction of the Local Government, by written instrument surrender his interest under the settlement in favour of the next tenant for life.

Further remainder.

11. Every settlement made under the foregoing provisions of this Act may also contain provisions for vesting the estate, in the event of the settlement on the second tenant for life or the third tenant for life or his son failing to take effect, in some other person descended from the settlor or the settlor's father in the direct male line.

Further provisions in settlements.

12. (1) Every settlement made under the foregoing provisions of this Act shall specify all incumbrances referred to in clause (ii) of section 8.

(2) Every such settlement shall also contain such provisions as may be approved by the Local Government with regard to the following matters, namely:—

- (a) the discharge of incumbrances on the estate, and the payment of interest thereon; or their continuance (with or without modification), and the payment of interest thereon;
- (b) the maintenance of the co-owners and co-sharers (if any) by or on whose behalf a declaration has been made under clause (ii) of section 5, and of all persons who at the time of the execution of the settlement are, or thereafter may be, legally entitled to maintenance out of the estate;
- (c) the management of the estate after the death of the settlor—
 - (i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (4) of section 2, or
 - (ii) during the minority of the second tenant for life;

(The Bengal Settled Estates Act, 1904.—Part II.—Application for permission to make a first settlement of an estate.—Part III.—Provisions to be contained in first settlements.—Sections 8-10.)

the Local Government written notice of their incumbrances and interests, respectively, within a period of six months from the date of the notification, and

- (c) intimating that any objections to the proposed settlement, whether urged by creditors or by other persons interested in the estate, which may be communicated to the Local Government in writing within the said period, will be duly considered.

Rejection or approval of application after notification.

8. (1) At any time after the expiration of the said period, and after considering any notices and objections received under section 7, and after such inquiry (if any) as it may think fit to make, the Local Government may, in its discretion, by written order, either—

- (a) reject such application, or
(b) grant permission to make the proposed settlement, in respect either of the whole of the property to which the application relates or of any part thereof :

Provided that, if any incumbrances have been set forth in the application or brought to the notice of the Local Government, such permission shall not be granted unless—

- (i) the incumbrances are first discharged, or
(ii) a condition is made for the insertion in the settlement of provisions, to be assented to by the creditors and approved by the Local Government, for the discharge of the incumbrances, or for their continuance, with or without modification, and for the payment of interest thereon.

(2) If the right of the applicant to make the settlement is disputed by or on behalf of any person interested or claiming to be interested in the estate, the Local Government may, if it thinks fit, refer the matter in dispute to the Civil Court for decision, before determining whether to reject the application or to grant permission to make the proposed settlement; and the Civil Court shall, in dealing with any such reference, follow the procedure prescribed in the Code of Civil Procedure for the trial of suits, so far as the same may be applicable.

XIV of 1908.

(3) Every decision by the Civil Court under sub-section (2) shall be deemed to be a decree within the meaning of the Code of Civil Procedure; and an appeal therefrom shall lie to the High Court.

XIV of 1904.

Rejection no bar to making fresh application.

9. The rejection under section 8 or section 8 of an application for permission to make a settlement of an estate under the foregoing provisions of this Act shall be no bar to the making of a fresh application in respect of the same estate, if the applicant shows sufficient reason for so doing.

PART III.—Provisions to be contained in first settlements.

Settlement of estates for three generations.

10. (1) Every settlement made under the foregoing provisions of this Act in respect of any estate shall provide that the estate shall be held for life—

- (a) by the settlor, as first tenant for life;
(b) and thereafter, by the second tenant for life, who shall be the eldest or only son of the first tenant for life;
(c) and thereafter, by the third tenant for life, who shall be the eldest or only son of the second tenant for life.

(2) Every such settlement shall further provide,—

- (a) if the estate is one to which the settlor was, immediately before the execution of the settlement, solely entitled—that, after the life of the third tenant for life, the eldest or only son of such tenant shall hold the estate absolutely;

(The Bengal Settled Estates Act, 1904.—Part III.—Provisions to be contained in first settlements.—Sections 11, 12.)

(vi) if the estate belonged, immediately before the execution of the settlement, to a joint Hindu family—that, after the life of the third tenant for life, the eldest or only son of such tenant shall during his life be the *karta* or manager of the estate, but without prejudice to the rights of any persons who, but for the settlement, would be co-owners of the estate; and

(vii) if the estate belonged, immediately before the execution of the settlement, to co-sharers—that, after the life of the third tenant for life, the eldest or only son of such tenant shall have during his life the sole right of management over the estate;

but subject in each case to the terms of any fresh settlement made by a tenant for life in pursuance of permission granted under section 16.

(3) If the eldest or only son of the settlor has predeceased the settlor, or if the settlor desires to exclude such son from holding the estate on the ground of incapacity or defect of character which is proved by the settlor to the satisfaction of the Local Government, then, notwithstanding anything contained in the foregoing sub-sections, the Local Government may permit him to provide in the settlement—

(i) that the second tenant for life shall be another son of the settlor, if he has another son, or the eldest or only son of the son who has predeceased the settlor or has been excluded as aforesaid, and

(ii) that the third tenant for life shall be the eldest or only son of the second tenant for life, or the eldest or only son of the son who has predeceased the settlor or has been excluded as aforesaid.

(4) Any settlement made under the foregoing provisions of this Act may provide that any tenant for life may, with the previous sanction of the Local Government, by written instrument surrender his interest under the settlement in favour of the next tenant for life.

Further provisions. 11. Every settlement made under the foregoing provisions of this Act may also contain provisions for vesting the estate, in the event of the settlement on the second tenant for life or the third tenant for life or his son failing to take effect, in some other person descended from the settlor or the settlor's father in the direct male line.

Further provisions in settlements. 12. (1) Every settlement made under the foregoing provisions of this Act shall specify all incumbrances referred to in clause (ii) of section 8.

(2) Every such settlement shall also contain such provisions as may be approved by the Local Government with regard to the following matters, namely:—

(a) the discharge of incumbrances on the estate, and the payment of interest thereon; or their continuance (with or without modification), and the payment of interest thereon;

(b) the maintenance of the co-owners and co-sharers (if any) by or on whose behalf a declaration has been made under clause (ii) of section 5, and of all persons who at the time of the execution of the settlement are, or thereafter may be, legally entitled to maintenance out of the estate;

(c) the management of the estate after the death of the settlor—

(i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (4) of section 2, or

(ii) during the minority of the second tenant for life;

(The Bengal Settled Estates Act, 1904—Part IV.—Supplementary settlements and fresh settlement.—Sections 13.)

(d) the management of the estate after the death of the second tenant for life—

(i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or

(ii) during the minority of the third tenant for life;

(e) the management of the estate after the death of the third tenant for life—

(i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or

(ii) during the minority of the next holder.

(5) If any settlement made under the foregoing provisions of this Act includes money, securities for money, or moveable property, the settlement shall contain such provisions as may be approved by the Local Government for vesting such money, securities or property in a trustee, for the investment or conversion of such money or securities in or into securities authorised by section 20 of the Indian Trusts Act, 1882, and for the payment to the trustee of expenses and remuneration in accordance with rules made under section 37, clause (c).

11 of 1902.

Explanation.—The Official Trustee of Bengal, the Collector or any private person may be appointed to be a trustee for the purposes of this sub-section.

(4) In addition to the various matters hereinbefore specified, the Local Government may require or permit the insertion in any settlement made under the foregoing provisions of this Act of any provision which it may think fit, and may make its approval of the settlement conditional on the insertion of provisions which it has required to be inserted:

Provided that no provisions inserted in pursuance of this sub-section shall operate to the prejudice of any secured or unsecured creditor unless assented to by him.

PART IV—Supplementary settlements and fresh settlements.

supplementary settle-
ments in respect of
property.

13. (1) At any time after a settlement has been made under the foregoing provisions of this Act, a tenant for life may apply to the Local Government for permission to make a supplementary settlement for the purpose of adding further property to the settled estate—

(a) if he is competent to contract,

(b) if he is in possession of such property, either in his own right or along with or on behalf of others, and

(c) if such property is held in permanent, heritable and transferable right:

(2) Provided that no application may be made under sub-section (1) in respect of any property—

(i) unless the applicant is solely entitled to the property, or

(ii) if the property belongs to a joint Hindu family—unless the applicant is the *karta* or managing member of the family, or

(iii) if the property belongs to co-sharers—unless the applicant is a principal shareholder in the property and has, by custom or with the consent of his co-sharers, the sole right of management over the property.

(3) The provisions of sections 4 to 9 shall apply to every application made under sub-section (1) in respect of any property, and the provisions of sections 10 to 12 shall apply to every settlement of such property, as if the property were an "estate" within the meaning of those sections.

(The Bengal Settled Estates Act, 1904.—Part IV.—Supplementary settlements and fresh settlements.—Sections 14-16.)

Power to apply for permission to make a supplementary settlement in respect of persons.

14. If, at any time after any settlement has been made under the foregoing provisions of this Act, the second tenant for life dies during the life of the settlor, or the settlor desires to exclude him from holding the estate on the ground of incapacity or defect of character which is proved by the settlor to the satisfaction of the Local Government,

the settlor may, if he is competent to contract, apply to the Local Government for permission to make a supplementary settlement for the purpose of appointing to be second tenant for life and third tenant for life, respectively, any other persons who might have been so appointed in pursuance of clauses (i) and (ii) of sub-section (3) of section 10.

Power to apply for permission to make a fresh settlement.

15. At any time after any settlement has been made under the foregoing provisions of this Act, a tenant for life of a settled estate may, if he is competent to contract, apply to the Local Government for permission to make a fresh settlement of the estate.

Procedure in dealing with applications under section 14 or 15.

16. (1) The provisions of section 4, sub-section (1), and section 9 shall apply to every application for permission to make a supplementary settlement in respect of persons or a fresh settlement.

(2) If any such application relates to an estate to which the settlor was, immediately before the execution of the former settlements, respectively, solely entitled, the Local Government may, in its discretion, and after such inquiry (if any) as it may think fit to make, by written order, either—

(i) reject the application, or

(ii) grant permission to make the proposed settlement.

(3) If any such application relates to an estate which belonged, immediately before the execution of the former settlements, respectively, to a joint Hindu family or to co-sharers, the application must be accompanied by a declaration by all persons (other than the applicant) who, but for such settlements, would be co-owners of or co-sharers in the estate, to the effect that they are willing to assent to the proposed settlement.

(4) If any of such co-owners or co-sharers is, at the time when the application is made, a minor or a lunatic, a declaration under sub-section (3) of this section may be accepted if it is made and approved as indicated in sub-section (2) or sub-section (3), as the case may be, of section 5.

(5) In every case referred to in sub-section (3) of this section, the Local Government

shall send a copy of the application, and of the declarations which accompanied it, to each person who has made a declaration in pursuance of that sub-section;

and, with the previous sanction of the Governor General in Council, shall publish a notification—

(a) setting forth the application and the declarations which accompanied it;

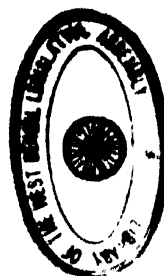
(b) calling upon all persons (other than creditors) interested or claiming to be interested in the estate, to send to the Local Government written notice of their interests within a period of six months from the date of the notification, and

(c) intimating that any objections by such persons to the proposed settlement, which may be communicated to the Local Government in writing within the said period, will be duly considered;

and, at any time after the expiration of the said period, and after considering any notices and objections received under this sub-section, and after such inquiry (if any) as it may think fit to make, may, in its discretion, by written order, either—

(i) reject the said application, or

(ii) grant permission to make the proposed settlement.



(The Bengal Settled Estates Act, 1904.—Part IV.—Supplementary settlements and fresh settlements.—Part V.—Settlements generally.—Sections 17, 18.)

Provisions as to fresh settlements.

17. (1) The provisions of sections 10, 11 and 12 shall apply to every fresh settlement made in pursuance of permission granted under section 16.

(2) All property which, immediately before the execution of a fresh settlement in respect of any estate, is included in any former settlement of the estate made under this Act, must be included in such fresh settlement.

(3) No property shall be included in any fresh settlement made under this Act in respect of any estate unless it is, immediately before the execution of such settlement, included in a former settlement of the estate made under this Act.

(4) If any incumbrance, which is dealt with in any former settlement made under this Act in respect of any estate, is still in existence at the time of the execution of a fresh settlement of the estate, then nothing contained in such fresh settlement shall affect the rights of the creditor unless assented to by him.

(5) Every fresh settlement made under this Act in respect of any estate shall, subject to the foregoing provisions of this section, supersede all former settlements made under this Act in respect of such estate.

PART V.—Settlements generally.

Approval, stamping and registration of settlements.

18. (1) No settlement made under this Act shall take effect unless the instrument of settlement—

- (a) is of a non-testamentary character,
- (b) is attested by two or more witnesses,
- (c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,
- (d) bears a stamp of the full value prescribed by sub-section (2), or, if the sanction of the Board of Revenue has been given under sub-section (3), of one-third of such value, and
- (e) is registered within three months after the said approval has been certified as aforesaid.

(2) Every instrument of settlement made under this Act, not being a supplementary settlement referred to in section 14 or a fresh settlement referred to in section 15, shall, notwithstanding anything contained in the Indian Stamp Act, 1899, bear a stamp of a value equivalent to one-fourth of the annual net profits of the estate comprised in the settlement :

11 of 1899.

(3) Provided that a stamp of one-third of such value may be affixed, with the previous sanction of the Board of Revenue, on arrangements being made to its satisfaction for the affixing of stamps for the rest of such value at subsequent dates within three years from the date of the instrument.

(4) If any question arises, with reference to sub-section (2) or sub-section (3), as to the amount of the annual net profits of any estate, the decision of the Board of Revenue thereon shall be final.

(5) Every instrument making a supplementary settlement referred to in section 14 or a fresh settlement referred to in section 15 shall, notwithstanding anything contained in the Indian Stamp Act, 1899, bear a stamp of ten rupees.

11 of 1899.

(6) Subject to the foregoing provisions of this section, every instrument of settlement shall take effect from the date of its execution.

*(The Bengal Settled Estates Act, 1904.—Part V.—Settlements
generally.—Sections 19-23.)*

Approval, stamping
and registration of
instruments of sur-
render.

19. (1) No instrument of surrender referred to in sub-section (4) of section 10 shall take effect unless it—

- (a) is of a non-testamentary character;
- (b) is attested by two or more witnesses;
- (c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government;
- (d) is stamped in accordance with the provisions of the Indian Stamp Act, 1899, and
- (e) is registered within three months after the said approval has been certified as aforesaid.

11 of 1900.

(2) Subject to the foregoing provisions of this section, every such instrument shall take effect from the date of its execution.

Bar to application of
succession laws, in
respect of property
comprised in settle-
ment.

20. (1) Notwithstanding anything contained in the Indian Succession Act, 1865, the Probate and Administration Act, 1881, or the Succession Certificate Act, 1889, it shall not be necessary for any person to obtain probate or letters of administration, or a certificate under the last-mentioned Act, to admit of his taking any property or recovering any debt or realising any security in virtue of a settlement made under this Act.

X of 1900
V of 1881
VII of 1889

(2) If any probate, any letters of administration or any certificate granted under the Succession Certificate Act, 1889, purports to cover any property, debt or security which is comprised in a settlement made under this Act, then, notwithstanding anything contained in Article 11 or Article 12 of Schedule I to the Court-fees Act, 1870, no court-fee shall be levied under either of those Articles in respect of such property, debt or security.

VII of 1889.

VII of 1870

Power of Local
Government to grant
certificate after death
of tenant for life.

21. At any time after the death of any tenant for life of a settled estate, any of the Secretaries to the Local Government may, upon the application of any person claiming a right to hold the settled estate under the instrument of settlement, grant a certificate to such person declaring him to be entitled to hold such estate under such instrument; and such certificate shall be presumed to be correct unless and until the contrary is proved.

Notification of instru-
ments of settlement
and instruments of
surrender or revocation
of settlement.

22. (1) When any instrument of settlement or surrender of settlement or revocation of settlement is registered, the registering-officer shall report the fact to the Local Government; and, on receipt of such report, the Local Government shall publish a notification stating the purport of the instrument and the office in which it has been registered.

(2) The Collector shall cause a copy of every such notification to be posted in his office, and to be published on the settled estate at such places and in such manner as may in his opinion be sufficient for giving information to tenants and other persons interested.

Abrogation of incon-
sistent laws.

23. No settlement or part of a settlement made under this Act shall be liable to be avoided or set aside by any Civil Court by reason only that it contravenes—

- (a) any provision of the Transfer of Property Act, 1882,
or
- (b) any law or rule for the time being in force for the prevention of perpetuities, or
- (c) any family custom or any personal law or law of succession to which the family is subject,

19 of 1903.

which is inconsistent with the provisions of this Act.

(The Bengal Settled Estates Act, 1904.—Part VI.—Revocation, cancellation and amendment of settlements.—Part VII.—Rights and powers of tenant for life, and protection of settled estate during his life.—Sections 24-27.)

PART VI.—Revocation, cancellation and amendment of settlements.

Revocation of settlement by tenant for life.

24. (1) A tenant for life of a settled estate may, at any time, if he is competent to contract, apply to the Local Government for permission to revoke, either wholly or as respects any particular property, any settlement made under this Act.

(2) The Local Government, after considering the application, and the result of any inquiry made by it or under its orders, and any further particulars or information called for by it, may, in its discretion, by written order, either—

- (a) reject the application, or
- (b) grant the permission applied for, or
- (c) grant permission to revoke the settlement as respects such property only as may be specified in the order.

(3) When permission is granted under sub-section (2) to revoke a settlement, either wholly or as respects any particular property, the revocation shall not take effect unless the instrument of revocation—

- (i) is of a non-testamentary character,
- (ii) is attested by two or more witnesses,
- (iii) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,
- (iv) is stamped in accordance with the provisions of the Indian Stamp Act, 1899, and
- (v) is registered within three months after the said approval has been certified as aforesaid.

II of 1899

(4) Subject to the foregoing provision of this section, every such instrument shall take effect from the date of its execution.

Cancellation or amendment of settlement by Local Government.

25. (1) Notwithstanding anything hereinbefore contained, the Local Government may at any time declare by notification that any settlement made under this Act in respect of a settled estate shall be deemed—

- (a) to be cancelled, or
- (b) to be amended so as to exclude any part of the estate described in the notification.

(2) On the publication of such notification the said settlement shall be deemed to be cancelled or amended as aforesaid, as the case may be.

Revival of incumbrances on revocation, cancellation or amendment of settlement.

26. When any instrument of settlement is revoked under section 24, or cancelled or amended under section 25, the rights of all persons having incumbrances on the estate shall, notwithstanding anything contained in the Indian Limitation Act, 1877, revive and be enforceable as if the settlement had not been made, but subject to any payments which were made while the settlement was in force.

XV of 1877.

PART VII.—Rights and powers of tenant for life, and protection of settled estate during his life.

Right of tenant for life to profits of settled estate.

27. All profits of a settled estate, which are realised by a tenant for life, or which, immediately before his death, were due to him but were not realised by him, shall, subject to the other provisions of this Act, belong absolutely to such tenant or his heirs, executors, administrators or assigns:

(The Bengal Settled Estates Act, 1904.—Part VII.—Rights and powers of tenant for life, and protection of settled estate during his life.—Sections 28-30.)

Provided that, if any rents due to a tenant for life in respect of a settled estate were in arrear immediately before his death, the same shall, upon his death, notwithstanding anything contained in this Act, or in the Indian Succession Act, 1865, or in any other law, or in any settlement made under this Act, and notwithstanding any will or other disposition made by such tenant, become due to the next holder of the estate.

1 of 1903.

Restriction on alienation by tenant for life.

28. Except as provided in sections 29 and 30, a tenant for life of a settled estate shall not be entitled to transfer by way of sale or gift, or otherwise alienate, or to create any incumbrance upon, or to lease, the estate, or any part thereof, or to assign his right to receive any of the profits thereof.

Sale by tenant for life.

29. (1) A tenant for life of a settled estate may, with the previous written sanction of the Civil Court, sell the estate or any part thereof.

(2) If the estate belonged, immediately before the execution of the settlement, to a joint Hindu family or to co-sharers, the Court shall, before determining to accord such sanction, notify the proposed sale to all persons (except the tenant for life) who, but for the settlement, would be co-owners or co-sharers in the estate; and shall hear and duly consider any objection which may be advanced by them or on their behalf.

(3) The proceeds of every such sale shall be paid by the purchaser to the Collector; and shall be held by the Collector in trust to re-invest the same, with the approval of the Local Government, in immoveable property, which shall, upon such re-investment, be and remain subject to the settlement in like manner as if it had been originally comprised therein.

Lease by tenant for life.

30. (1) A tenant for life of a settled estate may lease the estate or any part thereof from year to year or for any term not exceeding seven years, or (with the previous written consent of the Collector) for any longer term not exceeding fourteen years, or (with the previous sanction of the Local Government) for any longer term of years or in perpetuity.

(2) No premium or fine shall be taken on any such lease granted for a term exceeding seven years, or in perpetuity, except with the previous written consent of the Collector.

(3) When any premium or fine is taken on any lease granted under sub-section (1), then—

(a) if the lease is from year to year or for a term of years, a sum equivalent to four-fifths of the amount of the premium or fine, or

(b) if the lease is in perpetuity, the whole of the premium or fine

shall be paid—

(i) to the trustee appointed for the purposes of section 12, sub-section (3), or

(ii) if no trustee has been so appointed, to a trustee to be appointed for the purpose;

and shall be held by such trustee as part of the settled estate, and shall be invested by him in securities authorized by section 20 of the Indian Trusts Act, 1882:

1 of 1882.

Provided that such trustee may retain, for the payment of his expenses and remuneration, such portion of the amount paid to him as may be authorized by rules made under section 37, clause (c).

(4) In respect of every such lease the best rent shall be reserved that can reasonably be obtained.

(5) No payment of any instalment of such rent made to a tenant for life before it falls due shall operate to the prejudice of any subsequent holder of the estate.

(The Bengal Settled Estates Act, 1904.—Part VII.—Rights and powers of tenant for life, and protection of settled estate during his life.—Sections 31-34.)

Saving of leases of raiyati holdings.

31. Nothing in section 28 or sub-sections (1) and (2) of section 30 shall apply to leases of raiyati holdings.

Bar to sale of settled estate in execution of decree.

32. (1) No settled estate or part thereof shall during the life of a tenant for life, be sold in execution of a decree of a Civil Court.

(2) If any decree against a tenant for life of a settled estate is not satisfied, the Court may, on the application of the decree-holder, appoint a Receiver of such estate or any part thereof, under the provisions of Chapter XXXVI of the Code of Civil Procedure, for the purpose of recovering the amount of the decree and, subject to the rights of any secured creditor over such estate or part, satisfying the claims of the decree-holder.

XXI of 1882.

(3) An appeal shall lie to the High Court from any order made by a Court under sub-section (2).

Sale of settled estate for arrears of land-revenue, &c.

33. (1) Notwithstanding anything contained in the Bengal Land-revenue Sales Act, 1859, or any other law, no settled estate or part of a settled estate shall, without the previous sanction of the Local Government, be sold, during the life of any tenant for life thereof, for an arrear of land-revenue or for any other arrear which is recoverable in the same manner as an arrear of land-revenue.

XXI of 1859.

(2) If any settled estate or part of a settled estate be sold, with the sanction required by sub-section (1) of this section, to any person other than the tenant for life, the resulting surplus shall be dealt with in the manner described in sub-section (3) of section 29;

and, if the estate or any part thereof be purchased at the sale by the tenant for life, the resulting surplus shall be paid to the tenant for life, and the estate or part so purchased shall, notwithstanding the sale, continue to be subject to the settlement.

(3) If the person whose name is entered in any certificate granted under the said Bengal Land-revenue Sales Act, 1859, or any other law, as purchaser of a settled estate or part thereof, is not the tenant for life, the said resulting surplus may be retained by such person, and shall not be payable to the tenant for life, even though it may be claimed that the purchase was made by such person on behalf of the tenant for life.

XXI of 1859.

Procedure for recovery of such arrears.

34. (1) If any such arrear accrues in respect of a settled estate, or any part thereof, during the life of any tenant for life thereof, and if the sale of the estate or part for the recovery of the arrear is not sanctioned by the Local Government under section 33, the Collector may attach the estate or part,

and shall thereupon be entitled, to the exclusion of all other persons, to receive all rents and other moneys (if any) due to such tenant in respect of such estate or part,

and may manage the estate or part, either directly or through a manager, for such period as may be necessary for the recovery of such arrear.

(2) Upon the expiration of the period referred to in sub-section (1), the Collector shall deduct from the proceeds of the management the amount of the said arrear and of any similar arrears that may have accrued during such period, and any interest due thereon, and the expenses incurred in the management; and shall then—

(a) pay the balance of such proceeds to the person then entitled to hold the estate, and

(b) furnish such person with an account of the receipts and expenditure during the management, and

(c) release the estate or part to such person.

(The Bengal Settled Estates Act, 1904.—Part VIII.—Miscellaneous.—Sections 35-39.)

(3) If, after a settled estate or part thereof held by a tenant for life has been managed and released by the Collector under sub-sections (1) and (2), any such arrear as aforesaid again accrues in respect of the estate or part during the life of the same tenant, and if the sale of the estate or part thereof for the recovery of the arrear is not sanctioned by the Local Government under section 33,

the Court of Wards may take charge of and deal with the estate or part under the provisions of the Court of Wards Act, 1879; and may retain such charge until the death of such tenant and, if the next holder is then a minor, until such minor attains his majority;

and the said tenant shall, while the Court of Wards has charge of the estate or part, be debarred from receiving any income from the estate or part, other than such monthly sum as the Court of Wards may allow for the support of himself and his family;

and the powers conferred by sections 29 and 30 of this Act shall, while the Court of Wards has charge of the estate or part, be exercisable by the Court of Wards and not by the said tenant.

PART VIII.—Miscellaneous.

Form, publication and duration of permissions granted by Local Government.

35. (1) Every permission granted by the Local Government under section 8, section 10, sub-section (3), section 12, sub-section (4), section 13, section 16 or section 24 shall be in writing signed by one of the Secretaries to the Local Government, and shall contain a description of the property or person in respect of which the permission is granted, sufficient to identify the same.

(2) Every permission granted by the Local Government under section 8, section 13, section 16 or section 24 shall be published by notification, and shall remain in force until the expiry of twelve months from the date of the notification, or until the death of the applicant, whichever first happens.

Notifications how to be published.

36. Every notification prescribed by this Act shall be published in the Calcutta Gazette and also in such Vernacular Gazettes (if any) as the Local Government may direct.

Power to make rules.

37. (1) The Local Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Local Government may make rules for all or any of the following matters, namely:—

- (a) the procedure to be followed in submitting an application to the Local Government under this Act;
- (b) the form and contents of such applications, and the documents (if any) which should accompany them;
- (c) the payment to trustees, out of the trust property, of expenses properly incurred in or about the execution of any trust created under this Act, and of remuneration for their trouble, skill and loss of time in executing any such trust;
- (d) the guidance of the Collector in managing estates attached under section 34;
- (e) the payment or recovery of any expenses incurred by the Government in connection with any proceedings taken under this Act.

Application of Court of Wards Act, 1879.

38. The provisions of the Court of Wards Act, 1879, so far as they are not inconsistent with the terms of settlements duly made under this Act, shall be applicable to settled estates.

Saving of rights of secured creditors.

39. Nothing in this Act shall affect the rights of any secured creditor—

- (a) if his incumbrances or any of them have not been set forth in the list prescribed by section 4, clause (c), or
- (b) if he has not assented to any condition inserted in a settlement made under this Act for the discharge or continuance of his incumbrances or any of them.

CALCUTTA;
The 8th March, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council.



The Calcutta Gazette.

WEDNESDAY, FEBRUARY 3, 1904.

PART IV.

Bills of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bengal Settled Estates Bill, together with the Bill as amended by the Committee, is, by order of the President, published for information:—

THE BENGAL SETTLED ESTATES BILL, 1904.

REPORT OF THE SELECT COMMITTEE.

We, the undersigned, Members of the Select Committee to which the

Letters Nos. 1227 to 1234, dated the 21st July, 1903, asking for opinions on the Bill.

Letters Nos. 1497 to 1501, dated the 4th August, 1903, forwarding an extract from a letter from the Government of India, relating to the provisions in the Bill for the levy of stamp duty.

Letter No. 2078, dated the 3rd August, 1903, from the Honorary Secretary to the Central National Muhammadan Association.

Letter, dated the 4th August, 1903, from the Honorary Secretary to the Bhagalpur Landholders' Association.

Letter from the Honorary Secretary to the Muhammadan Literary Society of Calcutta, No. 829, dated the 4th August, 1903, with annexure. [Paper No. 2.]

Telegram, dated the 4th and 6th August, 1903, from the Honorary Secretary, Bihar Landholders' Association.

Letter No. 1836P., dated the 6th August, 1903, from the Political Department.

Letter No. 312, dated the 6th August, 1903, from the Honorary Secretary to the British Indian Association. [Paper No. 4.]

Letter, dated the 6th August, 1903, from the Secretary to the Calcutta Trades Association. [Paper No. 5.]

Letter, dated the 7th August, 1903, from the Hon'ble Nawab Bahadur Khwaja Salimullah, of Dacca. [Paper No. 6.]

Letter, dated the 8th August, 1903, from the Vice-Chairman, District Board, Patna. [Paper No. 7.]

Letter No. 6135A., dated the 7th August, 1903, from the Officiating Secretary to the Board of Revenue, L. P.

Letter No. 2388G., dated the 3rd August, 1903, from the Collector of the 24 Parganas.

Letter No. 66R.G., dated the 1st August, 1903, from the Officiating Commissioner of the Presidency Division.

Letter No. 1513R., dated the 3rd August, 1903, from the Commissioner of the Orissa Division.

Letter, dated the 8th August, 1903, from the Honorary Secretary to the Bengal Landholders' Association. [Paper No. 9.]

Letter, dated the 10th August, 1903, from the Honorary Secretary, Bihar Landholders' Association.

Letter, No. 153G.—P.53, dated the 12th August, 1903, from the Secretary, Muhammadan Defence Association.

Letter, dated the 13th August, 1903, from the Honorary Secretary, Bengal Landholders' Association.

Letter, dated the 13th August, 1903, from the Vice-Chairman of the Patna District Board, with enclosure.

Letter No. 1545—1903, dated the 13th November, 1903, from the Secretary to the Bengal Chamber of Commerce. [Paper No. 11.]

Bengal Settled Estates Bill, 1903, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this, our Report, with the Bill, as amended by us, annexed hereto.

2. The amendments which we have made in the Bill are, as far as possible, printed in italics; and all amendments of any importance are explained in the following paragraphs.

3. *Preamble.*—We have inserted the words "by landholders" in the preamble, so as to make it quite clear at the outset that the Bill is not an Incumbered Estates Bill, but may be put into operation only upon the voluntary action of landholders themselves.

4. *Clause 2.*—We have inserted words in sub-clause (h) to make it clear that the word

"son," as used in the Bill, includes a son born after the date of a settlement.

5. Additions have also been made to sub-clause (A) in order to recognise adoptions made (i) after the execution of a settlement, by the adoptive father himself, or (ii) within five years after his death, by his widow, if acting under authority lawfully conferred by him. The word "lawfully" has been inserted in sub-clause (ii) in order to exclude adoptions made by a widow in contravention of the *Mithila* law.

6. We have inserted definitions of "secured debt," "unsecured debt," "secured creditor" and "unsecured creditor," with reference to the new clauses for the protection of creditors which are explained below. We think some line must be drawn to exclude petty debts from the operation of the clauses just referred to, and have accordingly limited the new definition of "unsecured debt" to debts, demands and claims for sums exceeding Rs. 500.

7. We have altered the definition of the word "incumbrance," with reference to the new definitions mentioned in paragraph 6, *ante*.

8. *Clause 3*.—We have inserted provisos to meet (1) cases in which, as under the *Mitakshara* law, an estate is owned by the family, and not by an individual, the principal member of the family having, beyond his share in the proprietorship, nothing but a right of management as *karta*; and (2) cases in which, as under the *Muhammadian* law, a landholder has only a share in an estate, coupled with a right of management over the estate. We consider it desirable that the Bill should extend to both *Mitakshara* families and *Muhammadian* families as well as to other classes of people, and the amendments which we have made will adapt clause 3 to such families.

9. *Clause 4* is new. It definitely prescribes the signing and verification of applications for permission to settle an estate under the Bill, and states what particulars such applications are to contain, instead of leaving these matters to be dealt with, as was proposed by clause 26 of the Bill as introduced in Council, by rules to be made by the Local Government.

10. Although the Bill contains no clause to confine its application to estates of a particular value, we have inserted a sub-clause, (b), to require the furnishing of particulars as to value, in order that the Local Government may have a ready means of estimating the suitability of an estate for settlement.

11. Sub-clause (c) is important. It prescribes the inclusion, in all applications, of a full list of all incumbrances enforceable against the applicant or against the estate which it is proposed to settle. By virtue of the restriction inserted in the new definition of "unsecured debt," this sub-clause will not apply to debts due to unsecured creditors, not exceeding Rs. 500 in the case of each such creditor. All secured debts, however, must, as the Bill now stands, be mentioned in applications, whatever may be their amount.

12. *Clause 5* is also new. It requires an applicant who proposes to settle an estate belonging to a joint Hindu family, or to co-sharers, to send with his application a declaration by himself as to his powers, and a declaration by his co-owners or co-sharers, as the case may be, that they are willing to assent to the proposed settlement. Provision is made, in sub-clauses (2) and (3), for the latter declaration being made by guardians or committees, where any co-owners or co-sharers are minors or lunatics.

If the assent of any co-owner or co-sharer should not be obtainable, then the proposed settlement would have to be abandoned, or might, in the case of an estate held by co-sharers, be restricted to the shares of such co-sharers as are willing to assent to it.

13. *Clause 7*.—We have amended this clause so as—

(1) to require the Local Government to send a copy of every application, when in order, to each creditor and to each co-owner or co-sharer who has declared himself willing to assent to the settlement of the estate, and

(2) to declare that the notification in the Gazette must set forth the application and its accompanying declarations, instead of merely stating the purport of the application.

14. *Clause 8*.—Sub-clause (ii) has been amended so as to require, in every case in which incumbrances are not discharged prior to making a settlement,—

(1) that a condition be made for the insertion in the settlement of provisions either for the discharge of the incumbrances or for their continuance, with or without modification, and the payment of interest in either case.

(2) that such provisions shall be subject to the assent of the creditors as well as the approval of the Local Government.

The Bill, as observed in paragraph 3 *ante*, is not an Incumbered Estates Bill; and the amendments just mentioned are designed in order to prevent its being applied to any estate which is insolvent or heavily indebted, while they will also meet objections taken by the Bengal Chamber of Commerce and the Calcutta Trades Association, with which we are in unison, as to the insufficiency of the Bill, as introduced in Council, to protect the interests of creditors.

The provision as to the continuance of incumbrances will meet such cases as that of the Bettiah loan.

15. Sub-clause (2) of clause 8 empowers the Local Government to refer to a Civil Court disputes as to the right of the applicant to make a settlement; and sub-clause (3) declares that the decision of the Court on any such reference shall be deemed to be a decree, and shall be appealable to the High Court.

16. Clause 9 is new. It declares explicitly that the rejection of an application shall be no bar to the making of a fresh application if the applicant shows sufficient reason for so doing.

17. Clause 10 (1).—*Meaning of the expression "three generations."*—The object of the Bill, as explained by the Hon'ble Member in charge when introducing it in Council, is to provide a procedure for the settlement of estates for three generations. Some doubt has been felt as to the precise meaning which should be attached to the expression "settlement for three generations."

18. The Bill, as introduced in Council, was drawn on the assumption that A, the settlor (the first tenant for life), A's son B (the second tenant for life) and A's grandson C (the ultimate holder) constitute the three generations who are to be benefited by a settlement made under the Bill.

19. On the other hand, it has been contended that the expression in question should be interpreted as meaning that there should be three tenants for life, namely A, the settlor (the first tenant for life), A's son B (the second tenant for life), and A's grandson C (the third tenant for life); the ultimate holder being A's great-grandson, D.

20. It has been urged that, if there are to be only two tenants for life (including the settlor), the settlor will derive but little benefit from the Bill, inasmuch as under the existing law he can already limit his own interest to a life tenancy, and, if he is subject to the *Dayabhaga* law, he can also limit the interest of his son (if in being at the time of making the settlement) to a life tenancy; so that all that he would gain by the Bill would be a power to limit to a life tenancy the interest of an unborn son, and a power to grant the estate in remainder to an unborn grandson.

21. Again, it has been urged that, in order suitably to give effect to the policy of settling an estate for three generations, each of these three generations should be mere tenants for life, the ultimate vesting of the estate being postponed to the fourth generation.

22. We are of opinion that the settlor should be excluded in determining the "three generations" who are to be benefited by the Bill, and that accordingly there should be two tenants for life between him and the ultimate holder; and we have revised clauses 2, 10 (1), 11 and 12 (2) so as to give effect to this recommendation.

23. Clause 10 (2).—Sub-clause (2) of clause 10 is almost entirely new. It confines the declaration as to the ultimate absolute ownership of an estate to the case of estates to which the settlor was, immediately before the execution of the settlement, solely entitled; and it introduces two clauses to declare that, where the estate belonged to a joint Hindu family, the ultimate holder shall merely be the *karta* or manager of the estate, and that, where the estate belonged to co-sharers, the ultimate holder shall merely have the sole right of management over the estate.

The Bill, as now settled, will therefore provide for the restoration of the rights of co-owners and co-sharers, or their descendants, upon the expiration of a settlement.

24. We have, however, added words to clause 10 (2) in order to require the insertion, in deeds of settlement, of an express provision to the effect that the gift to the remainderman is subject to the terms of any fresh settlement

made by a tenant for life. Ordinarily the person who would execute a fresh settlement would be the second or third tenant for life, and the main object of a fresh settlement would be to convert the remainderman of the preceding settlement into a life tenant, so as to carry on the settlement for one more generation; and, if an express saving of the right to make such a conversion be inserted in the deed itself, there will be the less reason for objections on the part of the remainderman to the limitation of his interest.

25. *Clause 10 (3).*—We have amplified this clause so as to make it applicable to cases in which the eldest or only son of the settlor has predeceased him, as well as to cases in which the eldest or only son is a person of proved incapacity or defect of character.

26. We have also inserted words in clause 10 (3) in order to provide in these cases that the second tenant for life may be the son of the deceased or excluded son (as an alternative to another son of the settlor) and that the third tenant for life may be either the son of the second tenant for life or the son of the deceased or excluded son.

27. *Clause 11.*—We have revised this clause so as to declare expressly that a deed of settlement may provide for an estate being vested, on failure of previous tenants, only in some person who is descended from the settlor or the settlor's father in the direct main line.

28. *Clause 12 (2).*—We have revised sub-clause (b) so as to require the insertion in settlements of provisions for the maintenance of (1) co-owners and co-sharers (if any) who have assented to the settlement of their shares, and (2) all persons who, at the time of the execution of the settlement, are, or thereafter may be, legally entitled to maintenance out of the estate.

29. We have made an addition to sub-clauses (c), (d) and (e) to require the insertion in settlements of provisions for the management of the estate after the death of a tenant for life and pending the adoption of a son under authority lawfully conferred by him.

30. *Clause 12 (3).*—We have made an addition to authorise the payment of expenses and remuneration to trustees.

31. *Clause 12 (4).*—We have inserted words to make it clear that the Local Government may permit the insertion in a settlement of any provisions desired by the settlor; and we have added a proviso to declare that no provisions inserted in pursuance of this sub-clause shall operate to the prejudice of any creditor unless assented to by him.

32. *Clause 13.*—The proviso is new. The object of sub-clauses (ii) and (iii) is to authorise the making of supplementary settlements in respect of property belonging to co-owners or co-sharers; and they will admit of the addition of any such property which may have been excluded from a settlement in the first instance by reason of the minority of some of the co-owners or co-sharers.

Sub-clause (3) has been amplified so as to bring into full operation, in respect of supplementary settlements of property, the preceding clauses of the Bill relating to first settlements.

33. *Clause 14.*—This clause is new. It gives to settlors power to apply for permission to make a supplementary settlement for the purpose of substituting new second and third tenants for life for those appointed by a former settlement, in cases in which the second tenant for life appointed by such former settlement dies or shows incapacity or defect of character after its execution.

34. *Clause 16.*—This clause is almost entirely new. It declares, on the lines of preceding clauses, the procedure to be followed in dealing with applications for permission to make (1) supplementary settlements in respect of persons, and (2) fresh settlements.

35. *Clause 17.*—Sub-clause (1) and part of sub-clause (5) repeat provisions of the Bill as introduced, but sub-clauses (2) to (4) are new.

Sub-clause (2) declares that all property included in prior settlements must be included in any fresh settlement that may be made. The object of the sub-clause is to prevent the diminution of creditors' security by the making of a fresh settlement. If it should be desired, for any reason, to exclude any property, that can be done under clause 24 (b), before the fresh settlement is made, in which case the rights of creditors will be secured by clause 25.

Sub-clause (3) declares that no property shall be included in a fresh settlement unless it has been included in a former settlement. The object of this clause is to prevent the addition to settled estates by means of a fresh settlement of property which may be encumbered. As the procedure to be followed in dealing with applications for permission to make fresh settlements does not include the making of any inquiry as to incumbrances, it is necessary to exclude fresh property from such settlements. If a tenant for life should wish to add such property, he should do so by means of a supplementary settlement, which can, as the Bill is drawn, only be authorized after full inquiry as to incumbrances has been made.

Sub-clause (4) declares, by way of further security, that if any incumbrance dealt with in a former settlement is still in existence when a fresh settlement is made, the fresh settlement shall not affect the rights of the creditor unless he assents to it.

36. *Clause 18.*—We have inserted a sub-clause providing that in the case of fresh settlements and supplementary settlements in respect of persons the stamp duty shall be a nominal sum of ten rupees.

37. *Clause 19.*—In view of the special stamp duty on settlements which it is proposed to require by clause 18 of the Bill, it is, we think, desirable to prevent all possibility of succession duties being charged on property, debts or securities covered by a settlement. We have accordingly declared in clause 19 that probate, letters of administration or a succession certificate need not be taken out in respect of such property, debts or securities; and we have added a sub-clause to declare that if any probate, any letters of administration or any succession certificate should purport to cover any such property, debts or securities, no court-fee shall be levied in respect thereof.

38. *Clause 20.*—In order to prevent difficulties arising from the absence of probate, letters of administration or a certificate granted under the Succession Certificate Act, 1889, we have empowered the Local Government to grant a special certificate to the next holder under a settlement, after the death of any tenant for life.

39. *Clause 21.*—Sub-clause (2) is new. It requires the local publication of information as to the purport of instruments of settlement.

40. *Clause 22.*—We have added at the end of this clause the words "which is inconsistent with the provisions of this Act," in order to make it clear that the laws and customs referred to in sub-clauses (a), (i) and (c) are not intended to be abrogated in so far as they are consistent with the provisions of the Bill.

41. *Clause 23.*—We have added sub-clauses to require that an instrument revoking a settlement be executed, stamped and registered in the same way as an instrument creating a settlement.

42. *Clause 25* is new. It declares expressly that incumbrances shall revive upon the revocation, cancellation or amendment of a settlement.

43. *Clause 26* is new. Its object is to prevent disputes by declaring that rents of a settled estate, which were in arrear immediately before the death of a tenant for life, shall belong to the next holder of the estate, and not to the heirs, executors, administrators or assigns of such tenant.

44. *Clause 27.*—We have struck out the words "for any greater interest or time than during his life," which appeared at the end of the corresponding clause (17) of the Bill as introduced in Council. We consider that tenants for life should be debarred from alienating any part of a settled estate or the profits thereof for any period, except, of course, in the cases provided for in clauses 28 and 29 of the Bill; for if alienations were allowed the objects of the Bill would be defeated.

45. *Clause 28*—We have transferred from the Local Government to the Civil Court the power to sanction a sale of a settled estate or part thereof by a

tenant for life. Such a power can, in our opinion, be best exercised by a judicial tribunal. We have provided for notice of a proposed sale being given to all persons who, but for the settlement, would have been co-owners or co-sharers, and for their objections (if any) being heard and duly considered before the Court determines to sanction a sale.

46. *Clause 29.*—We have excepted leases up to seven years and leases in perpetuity from sub-clause (2), so as to admit of a premium or fine being taken on them without the consent of the Collector.

47. We have altered sub-clause (3) so as to allow the tenant for life to keep to his own use one-fifth of any premium or fine that he may stipulate to be taken on a lease from year to year or for a term of years, and we have added a proviso to authorise the payment of expenses incurred by, and remuneration to, the trustee.

48. We have struck out, as being unnecessary, the provision in sub-clause (4) which required that rent due under a lease of a settled estate should be payable quarterly.

49. *Clause 30.*—We have limited the range of this clause so as (1) to confine the exemption to leases of raiyati holdings and (2) to secure the application in all cases of sub-clause (3) of clause 29, as to the investment of a premium or fine taken on a lease.

50. *Clause 31.*—This clause is new. It prohibits the sale of a settled estate or any part thereof, during the life of a tenant for life, in execution of a decree; but provides for the appointment of a Receiver to recover the sum decreed. We consider the clause to be desirable in order to restrain, so far as is practicable, the wasting of an estate by a tenant for life. It leaves untouched the right of a landholder to bring a patni tenure to sale under the Bengal Patni Taluks Regulation, 1819.

51. *Clause 32.*—We have inserted words in sub-clause (2) to secure that, when an estate is sold to the tenant for life, the resulting surplus should be paid to him. In such a case it would be unfair that the surplus should be invested in immoveable property, to be added to the settlement, in addition to requiring that the property which the tenant has purchased should remain subject to the settlement.

52. *Sub-clause (3)* is new. Its object is to prevent *benami* purchases by a tenant for life.

53. *Clause 33.*—We have altered this clause so as to make it clear that, when arrears of revenue accrue in respect of part only of a settled estate, that part only may be attached by the Collector or dealt with by the Court of Wards.

54. We have altered sub-clause (3) so as to authorise, instead of to compel, the Court of Wards to retain charge of an estate until the death of the tenant for life and the attainment of majority by the next holder.

55. *Clause 36.*—We have added a sub-clause authorizing the Local Government to make rules as to the payment to trustees, out of trust money, of expenses properly incurred by them and remuneration for their services.

56. *Clause 37* is new. It declares that the provisions of the Court of Wards Act, 1879, so far as they are not inconsistent with the terms of settlements duly made under the Bill, shall be applicable to settled estates. The object of the clause is to make it clear that the Court of Wards may take charge of a settled estate if, for example, the holder of the estate has been adjudged by a Civil Court to be of unsound mind and incapable of managing his affairs and the settlement contains nothing to oust the jurisdiction of the Court of Wards.

57. *Clause 38* is also new. It saves the rights of secured creditors whose in cumbrances have not been set forth by an applicant for settlement, or who

may not have assented to conditions inserted in an instrument of settlement for the continuance or discharge of their incumbrances.

58. We recommend that the Bill, as now amended, be passed.

C. E. BUCKLAND.
L. HARE.
B. L. GUPTA.
J. T. WOODROFFE.
TARINI PERSHAD.
K. SALIMULLAH.
ASUTOSH MUKHOPADHYAYA.

CALCUTTA;
The 23rd January, 1904.

THE BENGAL SETTLED ESTATES BILL, 1904

AS AMENDED BY THE SELECT COMMITTEE.

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THE BENGAL SETTLED ESTATES BILL, 1904,

[AS AMENDED BY THE SELECT COMMITTEE.]

[NOTE.—The amendments made by the Select Committee are, as far as possible, printed in italics.]

A
BILL

TO

FACILITATE THE FAMILY SETTLEMENT OF ESTATES IN BENGAL.

WHEREAS it is expedient to facilitate the making of family settlements of estates by landholders in Bengal;

And whereas, the Bengal Land Revenue Sales Act, 1859, the Indian Succession Act, 1865, the Court-fees Act, 1870, the Indian Limitation Act, 1877, the Probate and Administration Act, 1881, the Transfer of Property Act, 1882, the Succession Certificate Act, 1889, and the Indian Stamp Act, 1899, having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 6 of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:—

PART I.—Preliminary.

Short title and extent.

1. (1) This Act may be called The Bengal Settled Estates Act, 1904, and

(2) It extends to the whole of Bengal.

Definition.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "estate" includes—

- (i) immoveable property,
- (ii) money and securities for money, and
- (iii) any jewellery or other moveable property which should, in the opinion of the Local Government, be treated as heirlooms;

(b) "settled estate" means an estate in respect of which a settlement made under this Act is for the time being in force;

(c) "settlor" means the person who makes a settlement under this Act;

(d) "first tenant for life" means the settlor;

(e) "second tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the first tenant for life;

(f) "third tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the second tenant for life;

(g) "tenant for life" means a first, second or third tenant for life;

(h) "son" includes a son born after the execution of a settlement, and, in the case of anyone whose personal law permits adoption, includes also a son—

(i) duly adopted, either before or after the execution of a settlement, by the adopter father himself, or

(ii) duly adopted to her deceased husband, within five years after his death, by a widow, acting under authority, in writing and registered, lawfully conferred on her by him in that behalf;

(The Bengal Settled Estates Bill.—Part II.—Application for permission to make a first settlement of an estate.—Clauses 3, 4.)

- (j) "secured debt" means a debt, demand or claim which is secured by way of a mortgage, charge or lien on specified property and is primarily enforceable against such property;
- (k) "unsecured debt" means a debt, demand or claim (other than a secured debt) for any sum exceeding five hundred rupees, which is enforceable against the person or general property of the debtor;
- (l) "secured creditor" means a person who is entitled to enforce payment of a secured debt;
- (m) "unsecured creditor" means a person who is entitled to enforce payment of an unsecured debt;
- (n) "incumbrance" means a secured debt, or an unsecured debt, or both;
- (o) the expression "the Collector," when used with reference to any estate, means the Collector of the district in which the estate or any part thereof is situated; and
- (p) the expression "the Civil Court," when used with reference to any estate, means the principal Civil Court having original jurisdiction in the area in which the estate or any part thereof is situated.

(2) A person shall be deemed, for the purposes of this Act, to be "competent to contract" if he is of the age of majority according to the law to which he is subject, and is of sound mind and is not disqualified from contracting by any law to which he is subject. [Cf. Act IX of 1872, s. 11; U. P. Act II of 1900, s. 3.]

(3) All words and expressions used in this Act, which are defined in the Transfer of Property Act, 1882, shall have the same meaning as in that Act. IV of 1882.

Part II.—Application for permission to make a first settlement of an estate.

Who may apply for permission to settle an estate.

3. (1) Any landholder may apply to the Local Government for permission to make a settlement of an estate under this Act, — [Cf. U. P. Act II of 1900, s. 3.]

- (a) if he is competent to contract,
- (b) if he is in possession of the estate, either in his own right or along with or on behalf of others, and
- (c) if the estate is held in permanent, heritable and transferable right.

(2) Provides that no application may be made under sub-section (1) in respect of any estate—

- (i) unless the applicant is solely entitled to the estate, or
- (ii) if the estate belongs to a joint Hindu family—unless the applicant is the karta or managing member of the family, or
- (iii) if the estate belongs to co-sharers—unless the applicant is a principal shareholder in the estate and has, by custom or with the consent of his co-sharers, the sole right of management over the estate.

Signature, verification and contents of application.

4. (1) Every such application must be in writing, and must be signed by the applicant and verified by him in the manner prescribed in section 58 of the Code of Civil Procedure for the verification of plaints. XIV of 1900.

(2) Every such application must contain the following particulars, namely:—

- (a) a description of the estate, sufficient for its identification;
- (b) a statement of the income yielded annually by the property comprised in the estate, and the revenue, rates and taxes due to the Government or any Local Authority annually in respect of such property; and
- (c) a list giving a full and complete enumeration and description of all incumbrances held by secured and unsecured creditors, respectively, and enforceable against the applicant or the estate, with the name and address of each such creditor, and a correct statement of the amount due to each such creditor.

(The Bengal Settled Estates Bill.—Part II.—Application for permission to make a first settlement of an estate.—
Clauses 5-7.)

Declarations to accompany applications in the case of estates belonging to a joint Hindu family or to co-sharers.

5. (1) If any estate in respect of which an application is made under section 3 belongs to—

- (a) a joint Hindu family, or
- (b) co-sharers,

the application must be accompanied by—

- (i) a sworn declaration by the applicant,—

in case (a), that he is the karta or managing member of the family, or

in case (b), that he is a principal shareholder in the estate and has, by custom or with the consent of his co-sharers, as the case may be, the sole right of management over the estate; and

- (ii) a sworn declaration, in case (a), by the other co-owners, or in case (b) by the other co-sharers, that they are willing to assent to the estate being settled under this Act

(2) If any of the said other co-owners or co-sharers is, at the time when the application is made, a minor, a declaration under clause (ii) of sub-section (1) may be accepted if it is

made on behalf of such minor by the guardian of his property or (when a guardian of his property cannot lawfully be appointed) the guardian of his person, appointed or declared under the Guardians and Wards Act, 1890, or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed or declared the guardian.

(3) If any of the aforesaid other co-owners or co-sharers is, at the time when the application is made a lunatic, a declaration may be accepted under clause (ii) of sub-section (1) if it is

made on behalf of such lunatic by his committee appointed under the Lunacy (Supreme Courts) Act, 1858, or the Lunacy (District Courts) Act, 1858, or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed the committee.

Power to reject application.

6. The Local Government may, in its discretion, and after such inquiry (if any) as it may think fit to make, by written order reject any application made under section 3. (G. O. P. No. 11 of 1903, A. S. 1)

Transmission and notification of application.

7. If any application made under section 3 is not rejected under section 6, and if the Local Government is satisfied that the conditions specified in section 3 are fulfilled, and that the provisions of sections 4 and 5 have been duly complied with, (G. O. P. No. 11 of 1903, A. S. 1)

the Local Government shall send a copy of the application, and of the declarations which accompanied it, to each creditor who is named in the application, and to each person who has made a declaration in pursuance of clause (ii) of section 5; *

and, with the previous sanction of the Governor General in Council, shall publish a notification—

- (a) setting forth the application and the declarations which accompanied it;
- (b) calling upon all creditors, whether secured or unsecured, holding or entitled to incumbrances enforceable against the applicant or the estate to which the application relates, and all other persons interested or claiming to be interested in the estate, to send to

(The Bengal Settled Estates Bill.—Part II.—Application for permission to make a first settlement of an estate.—Part III.—Provisions to be contained in first settlements.—Clauses 8-10.)

the Local Government written notice of their incumbrances and interests, respectively, within a period of six months from the date of the notification, and

- (c) intimating that any objections to the proposed settlement, whether urged by creditors or by other persons interested in the estate, which may be communicated to the Local Government in writing within the said period, will be duly considered.

Rejection or approval of application after notification.

8. (1) At any time after the expiration of the said period, and after considering any notices and objections received under section 7, and after such inquiry (if any) as it may think fit to make, the Local Government may, in its discretion, by written order, either—

- (a) reject such application, or
(b) grant permission to make the proposed settlement, in respect either of the whole of the property to which the application relates or of any part thereof:

Provided that, if any incumbrances have been set forth in the application or brought to the notice of the Local Government, such permission shall not be granted unless—

- (i) the incumbrances are first discharged, or
(ii) a condition is made for the insertion in the settlement of provisions, to be assented to by the creditors and approved by the Local Government, for the discharge of the incumbrances, or for their continuance, with or without modification, and for the payment of interest thereon.

(2) If the right of the applicant to make the settlement is disputed by, or on behalf of, any person interested or claiming to be interested in the estate, the Local Government may, if it thinks fit, refer the matter in dispute to the Civil Court for decision, before determining whether to reject the application or to grant permission to make the proposed settlement.

(3) Every decision by the Civil Court under sub-section (2) shall be deemed to be a decree within the meaning of the Code of Civil Procedure; and an appeal therefrom shall lie to the High Court.

Rejection no bar to making fresh application.

9. The rejection under section 6 or section 8 of an application for permission to make a settlement of an estate under the foregoing provisions of this Act shall be no bar to the making of a fresh application in respect of the same estate, if the applicant shows sufficient reason for so doing.

PART III.—Provisions to be contained in first settlements.

Settlement of estates for three generations.

10. (1) Every settlement made under the foregoing provisions of this Act in respect of any estate shall provide that the estate shall be held for life—

- (a) by the settlor, as first tenant for life,
(b) and thereafter, by the second tenant for life, who shall be the eldest or only son of the first tenant for life,
(c) and thereafter, by the third tenant for life, who shall be the eldest or only son of the second tenant for life.

(2) Every such settlement shall further provide,—

- (i) if the estate is one to which the settlor was, immediately before the execution of the settlement, solely entitled—that, after the life of the third tenant for life, the eldest or only son of such tenant shall hold the estate absolutely;
(ii) if the estate belonged, immediately before the execution of the settlement, to a joint Hindu family—that, after the life of the third tenant for life, the eldest or only son of such tenant shall during his life be the karta or manager of the estate, but without prejudice to the rights of any persons who, but for the settlement, would be co-owners of the estate; and

(The Bengal Settled Estates Bill.—Part III.—Provisions to be contained in first settlements.—Clauses 11, 12.)

- (iii) if the estate belonged, immediately before the execution of the settlement, to co-sharers—that, after the life of the third tenant for life, the eldest or only son of such tenant shall have during his life the sole right of management over the estate;

but subject in each case to the terms of any fresh settlement made by a tenant for life in pursuance of permission granted under section 16.

(3) If the eldest or only son of the settlor has predeceased the settlor, or if the settlor desires to exclude such son from holding the estate on the ground of incapacity or defect of character which is proved by the settlor to the satisfaction of the Local Government, then, notwithstanding anything contained in the foregoing sub-sections, the Local Government may permit him to provide in the settlement—

- (i) that the second tenant for life shall be another son of the settlor, if he has another son, or the eldest or only son of the son who has predeceased the settlor or has been excluded as aforesaid, and
(ii) that the third tenant for life shall be the eldest or only son of the second tenant for life, or the eldest or only son of the son who has predeceased the settlor or has been excluded as aforesaid.

Further remainders.

11. Every settlement made under the foregoing provisions of this Act may also contain provisions for vesting the estate, in the event of the settlement on the second tenant for life or the third tenant for life or his son failing to take effect, in some other person descended from the settlor or the settlor's father in the direct male line.

Further provisions in settlements.

12. (1) Every settlement made under the foregoing provisions of this Act shall specify all incumbrances referred to in clause (ii) of section 8.

(2) Every such settlement shall also contain such provisions as may be approved by the Local Government with regard to the following matters, namely:—

- (a) the discharge of incumbrances on the estate, and the payment of interest thereon; or their continuance (with or without modification), and the payment of interest thereon;
- (b) the maintenance of the co-owners and co-sharers (if any) by or on whose behalf a declaration has been made under clause (iii) of section 5, and of all persons who at the time of the execution of the settlement are, or thereafter may be, legally entitled to maintenance out of the estate,
- (c) the management of the estate after the death of the settlor—
(i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or
(ii) during the minority of the second tenant for life;
- (d) the management of the estate after the death of the second tenant for life—
(i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or
(ii) during the minority of the third tenant for life;
- (e) the management of the estate after the death of the third tenant for life—
(i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or
(ii) during the minority of the next holder.

(The Bengal Settled Estates Bill—Part IV.—Supplementary settlements and fresh settlements.—Clauses 13-15)

(3) If any settlement made under the foregoing provisions of this Act includes money, securities for money or moveable property, the settlement shall contain such provisions as may be approved by the Local Government for vesting such money, securities or property in a trustee, for the investment or conversion of such money or securities in or into securities authorised by section 20 of the Indian Trusts Act, 1882, and for the payment to the trustee of expenses and remuneration in accordance with rules made under section 26, clause (c).

11 of 1882.

Explanation.—The Official Trustee of Bengal, the Collector or any private person may be appointed to be a trustee for the purposes of this sub-section.

(4) In addition to the various matters hereinbefore specified, the Local Government may require or permit the insertion in any settlement made under the foregoing provisions of this Act of any provision which it may think fit, and may make its approval of the settlement conditional on the insertion of provisions which it has required to be inserted:

Provided that no provisions inserted in pursuance of this sub-section shall operate to the prejudice of any secured or unsecured creditor unless assented to by him.

PART IV.—Supplementary settlements and fresh settlements.

Supplementary settlement in respect of property.

13. (1) At any time after a settlement has been made under the foregoing provisions of this Act, a tenant for life may apply to the Local Government for permission to make a supplementary settlement for the purpose of adding further property to the settled estate—

[C. F. Act of 1900, s. 7.]

- (a) if he is competent to contract,
- (b) if he is in possession of such property, either in his own right or along with or on behalf of others, and
- (c) if such property is held in permanent, heritable and transferable right.

(2) *Provided that no application may be made under sub-section (1) in respect of any property—*

- (i) unless the applicant is solely entitled to the property, or
- (ii) if the property belongs to a joint Hindu family—unless the applicant is the karta or managing member of the family, or
- (iii) if the property belongs to co-sharers—unless the applicant is a principal shareholder in the property and has, by custom or with the consent of his co-sharers, the sole right of management over the property.

(3) The provisions of sections 4 to 9 shall apply to every application made under sub-section (1) in respect of any property, and the provisions of sections 10 to 12 shall apply to every settlement of such property, as if the property were an "estate" within the meaning of those sections.

Power to apply for permission to make a supplementary settlement in respect of persons

14. If, at any time after any settlement has been made under the foregoing provisions of this Act, the second tenant for life dies during the life of the settlor, or the settlor desires to exclude him from holding the estate on the ground of incapacity or defect of character which is proved by the settlor to the satisfaction of the Local Government,

the settlor may, if he is competent to contract, apply to the Local Government for permission to make a supplementary settlement for the purpose of appointing to be second tenant for life and third tenant for life, respectively, any other persons who might have been so appointed in pursuance of clauses (i) and (ii) of sub-section (3) of section 10.

Power to apply for permission to make a fresh settlement.

15. At any time after any settlement has been made under the foregoing provisions of this Act, a tenant for life of a settled estate may, if he is competent to contract, apply to the Local Government for permission to make a fresh settlement of the estate.

(The Bengal Settled Estates Bill.—Part IV.—Supplementary settlements and fresh settlements.—Clauses 16, 17.)

Procedure in dealing with applications under section 16 or 17

16. (1) The provisions of section 1, sub-section (1), and section 9 shall apply to every application for permission to make a supplementary settlement in respect of persons or a fresh settlement.

(2) If any such application relates to an estate to which the settlor was, immediately before the execution of the former settlements, respectively, a long entitled, the Local Government may, in its discretion, and after such inquiry (if any) as it may think fit to make, by written order, either—

- (i) reject the application, or
- (ii) grant permission to make the proposed settlement.

(3) If any such application relates to an estate which belonged, immediately before the execution of the former settlements, respectively, to a joint Hindu family or to co-sharers, the application must be accompanied by a declaration by all persons (other than the applicant) who, but for such settlements, would be co-owners of or co-sharers in the estate, to the effect that they are willing to assent to the proposed settlement.

(4) If any of such co-owners or co-sharers is, at the time when the application is made, a minor or a lunatic, a declaration under sub-section (3) of this section may be accepted if it is made and approved as indicated in sub-section (2) or sub-section (3), as the case may be, of section 5.

(5) In every case referred to in sub-section (3) of this section, the Local Government

shall send a copy of the application, and of the declarations which accompanied it, to each person who has made a declaration in pursuance of that sub-section,

and, with the previous sanction of the Governor General in Council, shall publish a notification—

- (a) setting forth the application and the declarations which accompanied it,
- (b) calling upon all persons (other than creditors) interested or claiming to be interested in the estate, to send to the Local Government written notice of their interests within a period of six months from the date of the notification, and
- (c) intimating that any objections by such persons to the proposed settlement, which may be communicated to the Local Government in writing within the said period, will be duly considered,

and, at any time after the expiration of the said period, and after considering any notices and objections received under this sub-section, and (for such inquiry (if any) as it may think fit to make, may, in its discretion, by written order, either—

- (i) reject the said application, or
- (ii) grant permission to make the proposed settlement.

Proceedings as to fresh settlements

17. (1) The provisions of sections 10, 11 and 12 shall apply to every fresh settlement made in pursuance of permission granted under section 16.

(2) All property, which, immediately before the execution of a fresh settlement in respect of any estate, is included in any former settlement of the estate made under this Act, must be included in such fresh settlement.

(3) No property shall be included in any fresh settlement made under this Act in respect of any estate unless it is, immediately before the execution of such settlement, included in a former settlement of the estate made under this Act.

(4) If any incumbrance, which is dealt with in any former settlement made under this Act in respect of any estate, is still in existence at the time of the execution of a fresh settlement of the estate, then nothing contained in such fresh settlement shall affect the rights of the creditor unless assented to by him.

(5) Every fresh settlement made under this Act in respect of any estate shall, subject to the foregoing provisions of this section, supersede all former settlements made under this Act in respect of such estate.

(The Bengal Settled Estates Bill.—Part V.—Settlements generally.—Clauses 18-21.)

PART V.—Settlements generally.

Approval, stamping
and registration of
settlements.

18. (1) No settlement made under this Act shall take effect unless the instrument of settlement—

[C. U. P. Act II of 1900, s. 10.]

- (a) is of a non-testamentary character,
- (b) is attested by two or more witnesses,
- (c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,
- (d) bears a stamp of the full value prescribed by sub-section (2), or, if the sanction of the Board of Revenue has been given under sub-section (3), of one-third of such value, and
- (e) is registered within three months after the said approval has been certified as aforesaid.

(2) Every instrument of settlement made under this Act, not being a supplementary settlement referred to in section 14 or a fresh settlement referred to in section 15, shall, notwithstanding anything contained in the Indian Stamp Act, 1899, bear a stamp of a value equivalent to one-fourth of the annual net profits of the estate comprised in the settlement :

II of 1900.

(3) Provided that a stamp of one-third of such value may be affixed, with the previous sanction of the Board of Revenue, on arrangements being made to its satisfaction for the affixing of stamps for the rest of such value at subsequent dates within three years from the date of the instrument.

(4) If any question arises, with reference to sub-section (2) or sub-section (3), as to the amount of the annual net profits of any estate, the decision of the Board of Revenue thereon shall be final.

(5) Every instrument making a supplementary settlement referred to in section 14 or a fresh settlement referred to in section 15 shall, notwithstanding anything contained in the Indian Stamp Act, 1899, bear a stamp of ten rupees.

II of 1900.

(6) Subject to the foregoing provisions of this section, every instrument of settlement shall take effect from the date of its execution.

Bar to application of
succession laws, in
respect of property
comprised in settle-
ment.

19. (1) Notwithstanding anything contained in the Indian Succession Act, 1865, the Probate and Administration Act, 1881, or the Succession Certificate Act, 1889, it shall not be necessary for any person to obtain probate or letters of administration or a certificate under the last-mentioned Act to admit of his taking any property or recovering any debt or realising any security in virtue of a settlement made under this Act.

X of 1905,
V of 1901,
VII of 1900

(2) If any probate, any letters of administration or any certificate granted under the Succession Certificate Act, 1889, purports to cover any property, debt or security which is comprised in a settlement made under this Act, then, notwithstanding anything contained in Article 11 or Article 12 of Schedule I to the Court-fees Act, 1870, no court-fee shall be levied under either of those Articles in respect of such property, debt or security.

VII of 1889

VII of 1870.

Power of Local
Government to grant
certificate after death
of tenant for life.

20. At any time after the death of any tenant for life of a settled estate, any of the Secretaries to the Local Government may, upon the application of any person claiming a right to hold the settled estate under the instrument of settlement, grant a certificate to such person declaring him to be entitled to hold such estate under such instrument; and such certificate shall be presumed to be correct unless and until the contrary is proved.

Notification of instru-
ments of settlement.

21. (1) When any instrument of settlement is registered, the registering-officer shall report the fact to the Local Government; and, on receipt of such report, the Local Government shall publish a notification stating the purport of the instrument and the office in which it has been registered.

[C. U. P. Act II of 1900, s. 13 (B).]

(The Bengal Settled Estates Bill.—Part V.—Settlements generally.—Part VI.—Revocation, cancellation and amendment of settlements.—Clauses 22-24.)

(2) The Collector shall cause a copy of every such notification to be posted in his office, and to be published on the settled estate at such places and in such manner as may in his opinion be sufficient for giving information to tenants and other persons interested.

Abrogation of income-tax laws.

22. No settlement or part of a settlement made under this Act shall be liable to be avoided or set aside by any Civil Court by reason only that it contravenes—

- (a) any provision of the Transfer of Property Act, 1882. IV of 1882.
or
- (b) any law or rule for the time being in force for the prevention of perpetuities, or
- (c) any family custom or any personal law or law of succession to which the family is subject,

which is inconsistent with the provisions of this Act.

PART VI.—Revocation, cancellation and amendment of settlements.

Revocation of title sent by tenant for life.

23. (1) A tenant for life of a settled estate may, at any time, if he is competent to contract, apply to the Local Government for permission to revoke, either wholly or as respects any particular property, any settlement made under this Act. (CY. U. P. Act II of 1900, s. 14.)

(2) The Local Government, after considering the application, and the result of any inquiry made by it or under its orders, and any further particulars or information called for by it, may, in its discretion, by written order, either—

- (a) reject the application, or
- (b) grant the permission applied for, or
- (c) grant permission to revoke the settlement as respects such property only as may be specified in the order.

(3) When permission is granted under sub-section (2) to revoke a settlement, either wholly or as respects any particular property, the revocation shall not take effect unless the instrument of revocation—

- (i) is of a non-testamentary character,
- (ii) is attested by two or more witnesses,
- (iii) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,
- (iv) is stamped in accordance with the provisions of the Indian Stamp Act, 1899, and
- (v) is registered within three months after the said approval has been certified as aforesaid.

11 of 1900

(4) Subject to the foregoing provisions of this section, every such instrument shall take effect from the date of its execution.

Cancellation or amendment of settlement by Local Government.

24. (1) Notwithstanding anything hereinbefore contained, the Local Government may at any time declare by notification that any settlement made under this Act in respect of a settled estate shall be deemed— (CY. U. P. Act II of 1900, s. 14.)

- (a) to be cancelled, or
- (b) to be amended so as to exclude any part of the estate described in the notification.

(2) On the publication of such notification the said settlement shall be deemed to be cancelled or amended as aforesaid, as the case may be.

(The Bengal Settled Estates Bill.—Part VI.—Revocation, cancellation and amendment of settlements.—Part VII.—Rights and powers of tenant for life, and protection of settled estate during his life.—Clauses 25-29.)

Revocation of incumbrances on revocation, cancellation or amendment of settlement.

25. When any instrument of settlement is revoked under section 23 or cancelled or amended under section 24, the rights of all persons having incumbrances on the estate shall, notwithstanding anything contained in the Indian Limitation Act, 1877, revive and be enforceable as if the settlement had not been made, but subject to any payments which were made while the settlement was in force. XV of 1877.

PART VII.—Rights and powers of tenant for life, and protection of settled estate during his life.

Life to profits of settled estate.

26. All profits of a settled estate, which are realised by a tenant for life, or which, immediately before his death, were due to him but were not realised by him, shall, subject to the other provisions of this Act, belong absolutely to such tenant or his heirs, executors, administrators or assigns:

Provided that, if any rents due to a tenant for life in respect of a settled estate were in arrear immediately before his death, the same shall, upon his death, notwithstanding anything contained in this Act, or in the Indian Succession Act, 1865, or in any other law, or in any settlement made under this Act, and notwithstanding any will or other disposition made by such tenant, become due to the next holder of the estate. X of 1902.

Restriction on alienation by tenant for life.

27. Except as provided in sections 28 and 29, a tenant for life of a settled estate shall not be entitled to transfer by way of sale or gift, or otherwise alienate, or to create any incumbrance upon, or to lease, the estate, or any part thereof, or to assign his right to receive any of the profits thereof. (C. U. P. Act II of 1900, s. 18.)

Rates by tenant for life.

28. (1) A tenant for life of a settled estate may, with the previous written sanction of the Civil Court, sell the estate or any part thereof.

(2) If the estate belonged, immediately before the execution of the settlement, to a joint Hindu family or to co-sharers, the Court shall, before determining to accord such sanction, notify the proposed sale to all persons (except the tenant for life) who, but for the settlement, would be co-owners or co-sharers in the estate; and shall hear and duly consider any objection which may be advanced by them or on their behalf.

(3) The proceeds of every such sale shall be paid by the purchaser to the Collector; and shall be held by the Collector in trust to re-invest the same, with the approval of the Local Government, in immoveable property, which shall, upon such re-investment, be and remain subject to the settlement in like manner as if it had been originally comprised therein.

Leases by tenant for life.

29. (1) A tenant for life of a settled estate may lease the estate or any part thereof from year to year or for any term not exceeding seven years, or (with the previous written consent of the Collector) for any longer term not exceeding fourteen years, or (with the previous sanction of the Local Government) for any longer term of years or in perpetuity. (C. U. P. Act II of 1900, s. 18.)

(2) No premium or fine shall be taken on any such lease granted for a term exceeding seven years, or in perpetuity, except with the previous written consent of the Collector.

(3) When any premium or fine is taken on any lease granted under sub-section (1), then—

- (a) if the lease is from year to year or for a term of years, a sum equivalent to four-fifths of the amount of the premium or fine, or
- (b) if the lease is in perpetuity, the whole of the premium or fine

shall be paid—

(i) to the trustee appointed for the purposes of section 12, sub-section (3), or

(ii) if no trustee has been so appointed, to a trustee to be appointed for the purpose;

(The Bengal Settled Estates Bill.—Part VII.—Rights and powers of tenant for life, and protection of settled estate during his life.—Clauses 30-33.)

and shall be held by such trustee as part of the settled estate, and shall be invested by him in securities authorized by section 20 of the Indian Trusts Act, 1882: II of 1881.

Provided that such trustee may retain, for the payment of his expenses and remuneration, such portion of the amount paid to him as may be authorised by rules made under section 36, clause (c).

(4) In respect of every such lease the best rent shall be reserved that can reasonably be obtained.

(5) No payment of any instalment of such rent made to a tenant for life before it falls due shall operate to the prejudice of any subsequent holder of the estate.

Saving of leases of raiyati holdings.

30. Nothing in section 27 or sub-sections (1) and (2) of section 29 shall apply to leases of raiyati holdings. C. U. P. Act
II of 1900, s.
12.

Bar to sale of settled estate in execution of decree.

31. (1) No settled estate or part thereof shall, during the life of a tenant for life, be sold in execution of a decree of a Civil Court.

(2) If any decree against a tenant for life of a settled estate is not satisfied, the Court may, on the application of the decree-holder, appoint a Receiver of such estate or any part thereof, under the provisions of Chapter XXXVI of the Code of Civil Procedure, for the purpose of recovering the amount of the decree and, subject to the rights of any secured creditor over such estate or part, satisfying the claims of the decree-holder. XIV of 1900

(3) An appeal shall lie to the High Court from any order made by a Court under sub-section (2).

Sale of settled estate for arrears of land-revenue, &c.

32. (1) Notwithstanding anything contained in the Bengal Land-revenue Sales Act, 1859, or any other law, no settled estate or part of a settled estate shall, without the previous sanction of the Local Government, be sold, during the life of any tenant for life thereof, for an arrear of land-revenue or for any other arrear which is recoverable in the same manner as an arrear of land-revenue. C. U. P. Act
IX of 1879, s.
22, cl. (1)
XI of 1859.

(2) If any settled estate or part of a settled estate be sold, with the sanction required by sub-section (1) of this section, to any person other than the tenant for life, the resulting surplus shall be dealt with in the manner described in sub-section (3) of section 28;

and, if the estate or any part thereof be purchased at the sale by the tenant for life, the resulting surplus shall be paid to the tenant for life, and the estate or part so purchased shall, notwithstanding the sale, continue to be subject to the settlement.

(3) If the person whose name is entered in any certificate granted under the said Bengal Land-revenue Sales Act, 1859, or any other law, as purchaser of a settled estate or part thereof, is not the tenant for life, the said resulting surplus may be retained by such person, and shall not be payable to the tenant for life, even though it may be claimed that the purchase was made by such person on behalf of the tenant for life. XI of 1859

Procedure for recovery of such arrears.

33. (1) If any such arrear accrues in respect of a settled estate, or any part thereof, during the life of any tenant for life thereof, and if the sale of the estate or part for the recovery of the arrear is not sanctioned by the Local Government under section 32, the Collector may attach the estate or part, C. U. P. Act
IX of 1879, s.
22, cl. (2).

and shall thereupon be entitled, to the exclusion of all other persons, to receive all rents and other moneys (if any) due to such tenant in respect of such estate or part,

and may manage the estate or part either directly or through a manager, for such period as may be necessary for the recovery

(The Bengal Settled Estates Bill.—Part VIII.—Miscellaneous.—
Clauses 34-38.)

(2) Upon the expiration of the period referred to in sub-section (1), the Collector shall deduct from the proceeds of the management the amount of the said arrear and of any similar arrears that may have accrued during such period, and any interest due thereon, and the expenses incurred in the management; and shall then—

[Cf. Ben. Act IX of 1879, s. 23, *provis.*]

- (a) pay the balance of such proceeds to the person then entitled to hold the estate, and
- (b) furnish such person with an account of the receipts and expenditure during the management, and
- (c) release the estate or part to such person.

(3) If, after a settled estate or part thereof held by a tenant for life has been managed and released by the Collector under sub-sections (1) and (2), any such arrear as aforesaid again accrues in respect of the estate or part during the life of the same tenant, and if the sale of the estate or part thereof for the recovery of the arrear is not sanctioned by the Local Government under section 32,

the Court of Wards may take charge of and deal with the estate or part under the provisions of the Court of Wards Act, 1879; and may retain such charge until the death of such tenant and, if the next holder is then a minor, until such minor attains his majority;

[Ben. Act IX of 1879.]

and the said tenant shall, while the Court of Wards has charge of the estate or part, be debarred from receiving any income from the estate or part, other than such monthly sum as the Court of Wards may allow for the support of himself and his family;

and the powers conferred by sections 28 and 29 of this Act shall, while the Court of Wards has charge of the estate or part, be exercisable by the Court of Wards and not by the said tenant.

PART VIII.—Miscellaneous.

Form, publication and duration of permissions granted by Local Government.

34. (1) Every permission granted by the Local Government under section 8, section 10, sub-section (3), section 12, sub-section (4), section 13, section 16 or section 23 shall be in writing signed by one of the Secretaries to the Local Government, and shall contain a description of the property or person in respect of which the permission is granted, sufficient to identify the same.

[Cf. U. P. Act II of 1900, s. 9.]

(2) Every permission granted by the Local Government under section 8, section 13, section 16 or section 23 shall be published by notification, and shall remain in force until the expiry of twelve months from the date of the notification, or until the death of the applicant, whichever first happens.

Notifications how to be published.

35. Every notification proscribed by this Act shall be published in the Calcutta Gazette and also in such Vernacular Gazettes (if any) as the Local Government may direct.

[Cf. U. P. Act II of 1900, ss. 5, 9, (2), 13 (2), 14.]

Power to make rules.

36. (1) The Local Government may, after previous publication, make rules for carrying out the purposes of this Act.

[Cf. U. P. Act II of 1900, s. 20.]

(2) In particular, and without prejudice to the generality of the foregoing provision, the Local Government may make rules for all or any of the following matters, namely:—

- (a) the procedure to be followed in submitting an application to the Local Government under this Act;
- (b) the form and contents of such applications, and the documents (if any) which should accompany them;
- (c) the payment to trustees, out of the trust property, of expenses properly incurred in or about the execution of any trust created under this Act, and of remuneration for their trouble, skill and loss of time in executing any such trust;
- (d) the guidance of the Collector in managing estates attached under section 33;
- (e) the payment or recovery of any expenses incurred by the Government in connection with any proceedings taken under this Act.

[Cf. Act II of 1902, ss. 20, 20.]

*Application of Court
of Wards Act, 1879.*

37. The provisions of the Court of Wards Act, 1879, so far as *Ben. Act 13* they are not inconsistent with the terms of settlements duly made *of 1879* under this Act, shall be applicable to settled estates.

*Saving of rights of
secured creditors.*

38. Nothing in this Act shall affect the rights of any secured creditor—

- (a) if his incumbrances or any of them have not been set forth in the list prescribed by section 4, clause (c), or
- (b) if he has not assented to any condition inserted in a settlement made under this Act for the discharge or continuance of his incumbrances or any of them.

F. G. WIGLEY,

*Secretary to the Bengal Council and
Asst. Secy. to the Govt. of Bengal,
Legislative Department*

CALCUTTA;
The 2nd February, 1904. }

THE following Report of the Select Committee on the Bengal Public Parks Bill, together with the Bill as amended by the Committee, is, by order of the President, published for information :—

REPORT OF THE SELECT COMMITTEE.

WE, the undersigned, Members of the Select Committee appointed to consider the Bill for the regulation of Public Parks in Bengal, have considered the Bill and the papers noted in the margin, and have the honour to submit this our Report, with the Bill as amended by us annexed hereto.

(1) Letter, dated the 9th January, 1904, from Babu Shrish Chunder De [Paper No. 1.]

(2) Letter from the Secretary, Muhammadan Defence Association, No. 190G 651P, dated the 14th January, 1904 [Paper No. 2.]

2. The amendments which we have made in the Bill are printed in italics, and the principal amendments are explained in the following paragraphs.

3. *Clause 3* is new. It empowers the Local Government to declare that any specified land, bridge or pontoon shall, for the purposes of the Bill, be deemed to be included in any park. The clause is required in order to admit of the extension of the Bill to the pontoon at the river-entrance to the Royal Botanic Garden, Sibpur, since offences against some of the rules referred to in clause 4 of the Bill might be committed there. The clause will also be useful in other cases which need not be mentioned in detail.

4. *Clause 4*.—The list of particular purposes for which rules may be made has been amplified.

5. *Clause 6*.—The word “detained” has been substituted for the word “arrested,” because the latter word implies a touching or confining of the body of the offender (*see* section 46 of the Code of Criminal Procedure, 1898), and such action will not ordinarily be necessary in the cases referred to in this clause, which are those of an offender refusing to give his name and residence.

The maximum period for which an offender may be detained under this clause has been reduced from 24 to 12 hours.

6. *Clause 7*.—For clause 7 of the Bill as introduced in Council we have substituted a clause which will have the effect of bringing superintendents and park-durwans within the category of public servants for the purposes of Chapters IX and X of the Indian Penal Code.

7. We recommend that the Bill, as now amended, be passed.

C. E. BUCKLAND.

B. L. GUPTA.

R. T. GREER.

TARINI PERSHAD.

RAVNESWAR PROSHAD SINGH.

BHUPENDRA NATH BASU.

CALCUTTA;

The 23rd January, 1904.

THE BENGAL PUBLIC PARKS BILL, 1904

(AS AMENDED BY THE SELECT COMMITTEE.)

*(The amendments made by the Committee are printed in italics.)**[Explanation of marginal notes:—**"Bot." means the rules of the Sibpur Botanic Garden, printed on the 15th April, 1898.**"Zoo." means the rules of the Alipur Zoological Garden, printed on the 30th January, 1899.]*

A

BILL

for the regulation of Public Parks in Bengal.

WHEREAS it is expedient to protect public parks and gardens in Bengal from injury, and to secure the public from molestation and annoyance while resorting to such parks and gardens;

It is hereby enacted as follows:—

Short title
and appli-
cation.

1. (1) This Act may be called the Bengal Public Parks Act, 1904.

(2) It applies to the public parks and gardens mentioned in the Schedule, and may be applied to any other public park or garden in Bengal by order of the Local Government published in the Calcutta Gazette

Definition.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "park" means any public park or garden to which this Act applies by virtue of section 1, sub-section (2), or any order published thereunder;

(b) "superintendent" means the person in executive charge of a park; and, for the purposes of section 6, sub-section (2), includes also—

(i) an assistant superintendent of a park, and

(ii) any member of the Managing Committee (if any) of a park; and

(c) "park-durwan" means any person appointed by the superintendent, or by the authority to whom the superintendent is subordinate, to act as a durwan of the park.

Power to ex-
tend down-
wards of park

3. The Local Government may, by notification in the Calcutta Gazette, declare that any specified land, bridge or pontoon shall, for the purposes of this Act, be deemed to be included in any park.

Power to
make rules.

4. (1) The Local Government may make rules for the management and preservation of any park, and for regulating the use thereof by the public.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the admission of persons, horses and ponies, and carriages, palanquins and other conveyances, into the park, and prescribe fees to be paid therefor;

[Cf. 35 & 36 Viet.,
c. 15, preamble.]

[Cf. 35 & 36 Viet.,
c. 15, s. 4.]

[Zoo., rules 8 to 13
and 15; Bot., rule 2.]

(The Bengal Public Parks Bill.—Clauses 5, 6.)

- (b) prohibit or regulate the bringing of dogs, ^[Bot. rule 17] _{motor cars, bicycles or tricycles into the} ^{Zoo., rule 15.]} park ;
- (c) prohibit the doing of all or any of the following things by persons other than ^[Bot. rule 6 : Zoo., rule 15.] employes of the park, that is to say, plucking or gathering anything growing in the park, breaking trees, branches or plants, cutting names or marks on trees, disfiguring buildings, furniture or monuments, removing or disfiguring labels or marks attached to trees or plants ;
- (d) prohibit the purchase of any produce of the park otherwise than from the superintendent or some other authorised person ; ^[Bot., rules 7, 8.]
- (e) prohibit shooting, bird-nesting, the catching of butterflies, or any act of cruelty ; ^[Bot., rule 13 : Zoo., rule 15.]
- (f) prohibit or regulate fishing or boating, and prescribe fees to be paid by persons obtaining permission to fish or to use boats ; ^[Zoo., rule 10 (e) (f).]
- (g) prohibit bathing or the pollution of water by any other means ; ^[Bot., rule 13 : Zoo., rule 15.]
- (h) prohibit the grazing of horses or ponies ; ^[Bot., rule 12.]
- (j) prohibit the teasing or annoying of animals or birds kept in the park ; ^[Zoo., rule 15.]
- (k) prohibit the commission of any nuisance, or the molestation or annoyance of any person resorting to the park.

(3) In making any rule under this section, the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

(4) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

(5) All rules made under this section shall be published in the Calcutta Gazette.

Exhibition of copies of rules in park 5. One or more copies, in English and in one or more vernacular languages, of every notification published under section 2, and of all rules made under section 4 for observance by persons resorting to a park, and for the time being in force, shall be put up in the park in such conspicuous manner as the superintendent may deem best calculated to give information to such persons. ^[Cf. 35 & 36 Viet. c. 15, s. 10.]

Refusal of offender to give name and residence. 6. (1) If any person who, in the presence of a park-durwan in uniform, has committed or has been accused of committing a breach of any rule made under section 4, and who is unknown to such durwan, refuses, on demand of such durwan, to give his name and residence, or gives a name or residence which such durwan has reason to believe to be false, such person may be detained by such durwan in order that his name or residence may be ascertained. ^[Cf. 35 & 36 Viet. c. 15, s. 5. Act V. 1893, s. 57.]

(2) When any person is detained under subsection (1) he shall forthwith be taken to the superintendent, or, if the superintendent be not present in the park or its immediate precincts, such person shall be taken to the nearest police-station, or, if he so requests, to the nearest Magistrate having jurisdiction to try him.

(The Bengal Public Parks Bill.—Clauses 7-9;
Schedule).

(3) If the true name and residence of any person so taken to the superintendent be not ascertained within a reasonable time, the superintendent shall forthwith send for an officer of police, and shall detain the offender until the arrival of such an officer, and shall then deliver him into the custody of such officer to be taken to the nearest police-station.

(4) If the true name and residence of any person taken to a police-station under this section be not ascertained within a reasonable time, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction to try him.

(5) When the true name and residence of any person detained under this section have been ascertained, he shall be allowed to depart.

(6) No person shall be detained under this section for a longer period than twelve hours.

Superintendent and park-durwan deemed "public servants."
7. Every superintendent and park-durwan shall, for the purposes of the Indian Penal Code, be deemed to be a public servant. [Cf. Act XVIII of 1887, s. 18 (f).] XLV of 1860

General powers, duties, etc., of park-durwan.
8. Every park-durwan shall, in addition to any powers and immunities specially conferred on him by this Act or by rules made hereunder, have, within the limits of the park to which he is appointed, all such powers, privileges and immunities, and shall, within the said limits, be liable to all such duties and responsibilities, as a police-constable has and is liable to within the limits of the police-station in which such park is comprised: [Cf. 35 & 36 Vict., c. 15, s. 7. Act V, 1898, s. 4 (a).]

Provided that every park-durwan shall be subordinate to the superintendent.

General powers, etc., of police-constables.
9. Every police-constable employed within the limits of a police-station shall have, within any park comprised in such limits, the powers, privileges and immunities conferred on a park-durwan by this Act and any rules made hereunder. [Cf. 35 & 36 Vict., c. 15, s. 7. Act V, 1898, s. 4 (a).]

THE SCHEDULE.

PUBLIC PARKS AND GARDENS TO WHICH THIS ACT APPLIES IN THE FIRST INSTANCE.

[See section 1, sub-section (2).]

The Royal Botanic Garden, Sibpur.
The Zoological Garden, Alipur.
The Eden Gardens, Calcutta.
The Lloyd Botanical Garden, Darjeeling.
The Victoria Pleasance, Darjeeling.

F. G. WIGLEY,

Secretary to the Bengal Council and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

CALCUTTA, }
The 2nd February, 1904. }



The Calcutta Gazette.

WEDNESDAY, MARCH 16, 1904.

PART IV.

Rules of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Amendments in the Rules for the conduct of the legislative business of the Bengal Council, which were made by the Council at a meeting held on the 12th instant and received the assent of the Lieutenant-Governor on the same date, are hereby published for general information:—

AMENDMENTS IN THE RULES FOR THE CONDUCT OF THE LEGISLATIVE BUSINESS OF THE BENGAL COUNCIL.

I. In rule 30, for the words "At any subsequent meeting, not being less than three days after the printed copies have been in the hands of Members," substitute the following, namely:—

At the meeting at which leave to bring in a Bill has been obtained, or at any subsequent meeting.

II. For rule 31 substitute the following, namely:—

31. When a Bill is introduced, or at any subsequent meeting of the Council, the Member in charge of it may make one or more of the following motions:—

- (a) that it be referred to a Select Committee, or
- (b) that it be taken into consideration by the Council, either at once or at some specified future day, or
- (c) that it be circulated for the purpose of eliciting opinion thereon.

III. In rule 32, for the words "No such motion" substitute the following, namely:—

No motion referred to in rule 31.

IV. In rule 33, for the words "such motion" substitute the following, namely:—

any motion referred to in rule 31.

V. After rule 33 insert the following, namely:—

33A. When a Bill has been introduced, it shall, together
Publication of Bills. with the Statement of Objects and Reasons,
be published in the Calcutta Gazette; and the
Council may direct that the Bill and Statement be published also
in all or any of the Vernacular Official Gazettes.

VI. After rule 43 insert the following, namely:—

43A. Any Member may move that a Bill which has been
amended by the Council or by a Select
Re-publication or re- Committee be re-published or be re-com-
commitment of amended mitted to the Select Committee.
Bill.

Such re-commitment may be either—

- (a) without limitation, or
- (b) with respect to particular clauses or amendments only
or
- (c) with instructions to the Select Committee to make
some particular or additional provision in the
Bill.

If the Council so decide, the President may order that the Bill
be re-published or re-committed, as the case may be.

VII. For clause (3) of rule 50 substitute the
following, namely:—

(3) to keep a list of the business for the time being before the
Council.

VIII. After rule 54 insert the following, namely:—

54A. Any Bill respecting which no motion has been made
in the Council for two years may, by order
Dropped Bills. of the President, be removed from the list of
business.

CALCUTTA;
The 14th March, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council.



The Calcutta Gazette.

WEDNESDAY, MARCH 30, 1904.

PART IV.

Bills of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Bill was introduced in the Council of the Lieutenant-Governor of Bengal on the 26th March, 1904, and is hereby published for information, together with the Statement of Objects and Reasons:—

A

BILL

To amend the Bengal Local Self-Government Act of 1886.

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PREAMBLE.

CLAUSE.

1. Short title.
2. Repeal of portions of Bengal Act III of 1885.
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 10. Power to appoint members of District or Local Board, if prescribed proportion not duly elected.
4. New sections 19 and 19A—
 19. Filling of casual vacancies.
 - 19A. Term of office of members of District Board or Local Board.
5. Amendment of section 23.

CLAUSE.

6. New section 23A—

23A. Appointment of Chairman or Vice-Chairman of District Board on failure to elect.

7. Amendment of section 25.

8. New sections 26 and 26A—

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26A. Leave of absence to Chairman or Vice-Chairman of District or Local Board.

9. New sections 29 and 29A—

29. Casual vacancies in office of Chairman or of Vice-Chairman of District or Local Board.

29A. Term of office of Chairman and Vice-Chairman.

10. Amendment of section 32.

11. New section 35A—

35A. Provident or Annuity Fund.

12. Amendment of section 36.

13. New section 41A—

41A. Chairman of Union Committee.

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15. New sections 46A to 46E—

46A. Power to impose a rate when District Board guaranteed interest on capital expended on railway or tramway.

46B. Amount of such rate.

46C. Assessment, payment and recovery of such rate.

46D. Application of proceeds of such rate.

46E. Cessation of levy of rate when required sum collected.

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17. Amendment of section 52.

18. Amendment of section 53.

19. Amendment of section 56.

20. Amendment of section 59.

21. New section 61—

61. Pounds.

22. Addition to section 63.

23. Addition to section 67.

24. Addition to section 70.

25. Amendment of section 73.

26. Amendment of section 83.

CLAUSE.

27. New sections 86A to 86L—

86A. *Power of District Board to establish toll-bars and levy tolls on bridges.*

86B. *Lease of toll-bar.*

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28. New section 88A—

88A. *Power to contribute towards cost of municipal water-supply.*

29. Amendment of section 100.

30. Amendment of sections 105 to 107 and 117.

31. Amendment of section 108.

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33. Amendment of section 110.

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35. New section 114—

114. *Registration of births and deaths.*

36. New section 119A—

119A. *Subordination of Union Committee to District Board or Local Board.*

37. Amendment of section 130.

38. New section 133—

133. *Disputes between two or more Union Committees when to be referred to District Board or Local Board.*

39. Amendment of section 138.

40. Amendment of section 142.

41. Addition to section 144.

42. Amendment of Schedule III.

**THE BENGAL LOCAL SELF-GOVERNMENT
(AMENDMENT) BILL, 1904.**

[New matter is, as far as possible, printed in italics.]

A

BILL

To amend the Bengal Local Self-Government Act of 1885.

WHEREAS it is expedient to amend the Bengal Local Self-Government Act of 1885 in manner hereinafter appearing; Ben. Act III of 1885.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Local Self-Government (Amendment) Act, 1904.

Repeal of portions of Bengal Act III of 1885.

2. The following portions of the Bengal Local Self-Government Act, 1885, are hereby repealed, namely:— Ben. Act III of 1885.

in section 1, the words "or of the districts of Singhbhum, the Sonthal Parganas or the Chittagong Hill-tracts";

the proviso in section 6;

section 16;

section 24;

the last paragraph of section 25;

section 34;

section 72;

the proviso to section 73;

in section 103, the words "A Local Board shall exercise powers of supervision and control over all Union Committees within the area under its authority, and", and section 104.

New section 10

3. For section 10 of the said Act the following shall be substituted, namely:—

"10. If, within the time prescribed by rules made by the Lieutenant-Governor under this Act, the prescribed proportion of elected members of any District Board or Local Board is not duly elected, the Lieutenant-Governor may appoint members to make up that proportion."

Power to appoint members of District or Local Board, if prescribed proportion not duly elected

New sections 19 and 19A.

4. For section 19 of the said Act the following shall be substituted, namely:—

"19. (1) When the place of an elected member of a District Board or Local Board becomes vacant by his resignation, removal or death, a new member shall be elected, in accordance with the rules made by the Lieutenant-Governor under this Act, to fill the place:

Provided that if, within the time prescribed by rules made by the Lieutenant-Governor under this Act, no new member is duly elected, the Lieutenant-Governor may appoint a new member to fill the place.

(2) When the place of an appointed member of a District Board or Local Board becomes vacant as aforesaid, the Lieutenant-Governor may appoint a new member to fill the place.

The Bengal Local Self-Government (Amendment) Bill, 1904.
(Clauses 5-9.)

(3) No act of any District Board or Local Board or of its officers or of the Board in meeting shall be deemed to be invalid by reason only of the fact that the number of members of the Board, at the time of the performance of the act, was less than the prescribed number.

"19A. (1) A member of a District Board or Local Board who <sup>Term of office of mem-
bers of District Board or
Local Board.</sup> has been appointed by official designation shall, <sup>of Ben. Act
111 of 1904, s.
16 and s. 17,
last para</sup> subject to sections 17 and 18 of this Act, and unless the Lieutenant-Governor otherwise directs, continue to be a member of the Board while he continues to hold the office to which such designation refers.

(2) A member of a District Board or Local Board who has been elected or appointed under section 19 shall, *subject as aforesaid*, hold office until the person, whose place he fills would regularly have gone out of office, and shall then go out of office.

(3) In cases not provided for by sub-section (1) or sub-section (2) of this section, the term of office of a member of a District Board or Local Board shall be fixed by the Lieutenant-Governor by rules which may provide for the retirement of members by rotation.

(4) An outgoing member of a District Board or Local Board may, if otherwise qualified, be re-elected or re-appointed."

Amendment of section 22.

5. In section 22 of the said Act, after the word "elected," the words "either by name or by virtue of his office" shall be inserted.

New section 23A.

6. After section 23 of the said Act the following shall be inserted, namely:—

"23A. If any District Board fails to elect a Chairman or Vice-Chairman within the time prescribed by rules made by the Lieutenant-Governor under this Act, the Lieutenant-Governor may appoint a Chairman or Vice-Chairman, as the case may be."

^{Appointment of Chairman or Vice-Chairman of District Board on failure to elect.}

Amendment of section 25.

7. In section 25 of the said Act, after the word "elected" the words "either by name or by virtue of his office" shall be inserted.

New sections 26 and 26A.

8. For section 26 of the said Act the following shall be substituted, namely:—

"26. (1) Every Local Board shall from time to time, ^{Vice-Chairman of Local Board.} within a period prescribed by rules made by the Lieutenant-Governor under this Act, elect one of its members to be Vice-Chairman.

(2) If any Local Board fails to elect a Vice-Chairman within such period, the Lieutenant-Governor may appoint a Vice-Chairman.

"26A. A District Board or Local Board may grant leave of absence to their Chairman or Vice-Chairman <sup>of Ben. Act
111 of 1904, s.
26B.</sup> for any period not exceeding three months in any one year."

^{Leave of absence to Chairman or Vice-Chairman of District or Local Board.}

New sections 29 and 29A.

9. For section 29 of the said Act the following shall be substituted, namely:—

"29. (1) If a Chairman of a District Board dies, resigns, is removed, becomes incapable of acting, or ^{Occasional vacancies in office of Chairman or of Vice-Chairman of District or Local Board.} avails himself of leave granted under section 26A, the Lieutenant-Governor may appoint a new Chairman, or may direct that, within a period prescribed by

The Bengal Local Self-Government (Amendment) Bill, 1904.

(Clauses 10, 11.)

rules made by the Lieutenant-Governor under this Act, a new Chairman be elected by the members of the Board from among their own number, subject to his approval.

(2) If a Chairman of a Local Board or a Vice-Chairman of a District Board or Local Board dies, resigns, is removed, becomes incapable of acting, or avails himself of leave granted under section 26A, the Board shall, at a special meeting held for the purpose within a period prescribed by rules made by the Lieutenant-Governor under this Act, elect from among its members a new Chairman or Vice-Chairman, as the case may be.

(3) If any District Board or Local Board fails to elect a new Chairman or Vice-Chairman within the prescribed period, the Lieutenant-Governor may appoint a new Chairman or Vice-Chairman, as the case may be.

“29A. (1) The term of office of an elected Chairman or Vice-Chairman of a District Board or Local Board, or of an appointed Vice-Chairman of a District Board or Chairman or Vice-Chairman of a Local Board, shall, subject to sections 27 and 28 of this Act, be the residue of his term of office as a member of the Board.”

[Cf. Ben. Act III of 1900, s. 26; s. 26, last para.; s. 26, second para., and s. 20, third para.]

(2) The term of office of an appointed Chairman of a District Board shall, subject as aforesaid, be one year from the date of his appointment; but he may be re-appointed on the expiration of that term.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the term of office of a Chairman or Vice-Chairman appointed or elected to fill a casual vacancy consequent upon the grant of leave under section 26A shall expire upon the return from leave of the person whose office he was appointed or elected to fill.

[Cf. Ben. Act III of 1904, s. 27.]

(4) Every appointed Chairman of a District Board shall be deemed to be a member of the Board during his term of office.”

Amendment of section 32.

10. In clause (g) of section 32 of the said Act, for the words “leave, suspension and removal” the words “leave, leave allowances and punishment (including suspension and removal)” shall be substituted.

New section 35A.

11. After section 35 of the said Act the following shall be inserted, namely:

“35A. A District Board may, from time to time, with the sanction of the Lieutenant-Governor, make rules—

[Cf. Ben. Act III of 1904, s. 27.]

- (a) for the creation and management of a Provident or Annuity Fund,
- (b) for compelling members of their establishment to make contributions to such Fund,
- (c) for supplementing such contributions by payments out of the District Fund, and
- (d) for the payment of moneys out of such Provident or Annuity Fund;

and may, with the like sanction, repeal, add to or alter such rules.”

The Bengal Local Self-Government (Amendment) Bill, 1904.
(Clauses 12-15.)

Amendment of sec.
tion 36.

12. In the proviso to section 36 of the said Act, before the words "Local Board" the words "*District Board or*" shall be inserted, and before the word "subordinate" the words "*for the purposes of this section*" shall be inserted.

New section 41A.

13. After section 41 of the said Act the following shall be inserted, namely:—

"41A. Every Union Committee shall, from time to time, elect
Chairman of Union one of its members to be Chairman of the Committee."

Amendment of sec.
tion 44.

14. In section 44 of the said Act, —

(a) for the words "the Local Board to which it is subordinate as hereinafter provided" the words "the *District Board or Local Board to which the Committee is, for the purposes of this section, subordinate*" shall be substituted, and

(b) for the words "the Local Board" the words "the *aforsaid District Board or Local Board*" shall be substituted.

New sections 46A to
46E

15. After section 46 of the said Act the following shall be inserted, namely:—

"46A. If at any time it appears to the Lieutenant-Governor that a District Board is unable to make any payment guaranteed under section 82 in respect of a railway or tramway,
Power to impose a rate when District Board has guaranteed interest on capital expended on rail way or tramway. [Cf. Mad Act V of 1886, s. 87, cl. (ii), inserted by Mad Act VI of 1900, s. 67.]

without effecting such a reduction of its ordinary expenditure as would, in the opinion of the Lieutenant-Governor, prevent the Board from efficiently maintaining the existing communications in the district, or from carrying out any other duty which is imposed on the Board by law or which the Board has undertaken to perform,

the Lieutenant-Governor may, by notification in the Calcutta Gazette, for the purpose of providing the required funds, impose a rate on the annual value of lands as defined in section 4 of the Cess Act, 1880. [Cf. Ben. Act IX of 1880, s. 6.]

"46B. The amount of any rate imposed under section 46A for the purpose of making any payment shall be so fixed as to yield no more than the amount required for making that payment, and shall not exceed three pice on every rupee of the annual value of the lands on which the rate is imposed.
Amount of such rate.

"46C. The procedure prescribed by and under the Cess Act, 1880, for the assessment, payment and recovery of road cess and public works cess shall, so far as may be, and subject to the provisions of sections 46A and 46B, apply to the assessment, payment and recovery of any rate imposed under section 46A. [Ben. Act IX of 1880.]

"46D. The proceeds of any rate imposed under section 46A for the purpose of making any payment shall be utilized solely for the purpose of making that payment.
Application of proceeds of such rate.

"46E. Whenever the proceeds of any rate imposed under section 46A are sufficient for making the payment on account of which the rate was imposed, the levy of the rate shall cease."
Cessation of levy of rate when required sum collected.

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(Clauses 16-22.)

addition to section 48.	16. To section 48 of the said Bengal Local Self-Government Act of 1885 the following shall be added, namely :— “ <i>Explanation</i> .—Alterations or modifications may be made or directed by the Commissioner under this section on any of the grounds mentioned in the penultimate paragraph of section 47.”	Ben. Act III of 1885.
Amendment of section 52.	17. (1) For clause (3) of section 52 of the said Act the following shall be substituted, namely :— “(3) all sums directed by notification under the Cattle-trespass Act, 1871, section 31, to be placed to the credit of the Fund.” (2) After clause (5) of the said section 52 the following shall be inserted, namely :— “(5a) all receipts accruing within the district from tolls or leases under Part III D (1) of this Act.” (3) After clause (7) of the same section the following shall be inserted, namely :— “The proceeds of any rate imposed under section 46A shall be placed to the credit of the District Fund, under a separate head.”	1 of 1871.
Amendment of section 53.	18 (1) To clause <i>Fifthly</i> of section 53 of the said Bengal Local Self-Government Act of 1885 the following shall be added, namely :— “and to the payment of any sums assigned by the District Board to a Local Board or a Union Committee under this Act.” (2) In clause <i>Sixthly</i> of the same section, for the words “of the travelling expenses incurred by members of the District Board in attending meetings of the Board or meetings of a Joint Committee” the following shall be substituted, namely :— “(a) of travelling expenses incurred by delegates of the District Board in attending meetings convened under the rules made by the Lieutenant-Governor in pursuance of sub-section (4) of section 1 of the Indian Councils Act, 1892, for the purpose of recommending a person to be nominated as a member of the Lieutenant-Governor's Council; (b) of travelling expenses incurred by members of the District Board in attending meetings of the Board or meetings of a Joint Committee; and (c) in such cases, if any, as the Lieutenant-Governor may direct, of travelling expenses incurred by members of the District Board or any Local Board in performing journeys for carrying out other objects of this Act.”	Ben. Act III of 1885. [Cf. Ben. Act III of 1894, s. 69 (2). ss & 56 Vict., c. 14.]
Amendment of section 56.	19. For clause (1) of section 56 of the said Bengal Local Self-Government Act of 1885 the following shall be substituted, namely :— “(1) all sums directed by notification under the Cattle-trespass Act, 1871, section 31, to be placed to the credit of the Fund.”	Ben. Act III of 1885. 1 of 1871.
Amendment of section 59.	20. In section 59 of the said Bengal Local Self-Government Act of 1885, for the letter “D” the letter and figure “D (1)” shall be substituted.	Ben. Act III of 1885.
New section 61.	21. For section 61 of the said Act the following shall be substituted, namely :— “61. Every District Board shall perform such functions as may be transferred to it by notification under the Cattle-trespass Act, 1871, section 31.”	1 of 1871.
Addition to section 63.	22. To section 63 of the said Bengal Local Self-Government Act of 1885, the following shall be added, namely :— “or may make grants in aid of any such schools, whether the same be under public or private management.”	Ben. Act III of 1885.

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(Clauses 23-27.)

Addition to section 67.

23. To section 67 of the said Act the following shall be added, namely:—

“A District Board may also provide for—

- (a) the training and employment of medical and veterinary practitioners; and
- (b) the promotion of free vaccination.”

Addition to section 70.

24. To section 70 of the said Act the following shall be added, namely:—

“or defray the expenses of any such inhabitants for journeys to and from any hospital established in any part of British India for the treatment of special diseases.”

Amendment of section 73.

25. In section 73 of the said Act, after the words “for the purposes of this Act” the words and figures “but subject to the provisions of Chapter III of Part III thereof” shall be inserted.

Amendment of section 82.

26. (1) In section 82 of the said Act, for the words “Lieutenant-Governor” the words “Governor General in Council” shall be substituted.

(2) To the same section the following shall be added, namely:—

“Provided that no application for the said sanction shall be made, in the case of a railway or tramway, unless—

- (a) it is authorised by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the District Board have voted; and
- (b) such resolution declares the assent of the said majority to the imposition of a rate under section 46A in the circumstances stated in that section.”

(Cf. M.L.A. 4 of 1904, s. 25, proviso, added by Mad. Act VI of 1900, s. 45.)

New sections 86A to 86L.

27. After section 86 of the said Act the following shall be inserted, namely:—

“D(1) Tolls on Bridges.

“86A. The District Board, with the sanction of the Lieutenant-Governor, may establish a toll-bar
Power of District Board to establish toll-bars and levy tolls on bridges.

(Cf. Ben. Act III of 1904, s. 163, 169(1).)

on any bridge in the district which was constructed out of the District Fund and the construction of which was completed after the commencement of the Bengal Local Self-Government (Amendment) Act, 1904, or

at any place in the district, adjacent to any such bridge, at which tolls may conveniently be levied,

and may levy tolls at such toll-bar on vehicles and animals passing over such bridge:

Provided as follows:—

(1) no toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—

- (a) the expenses incurred in constructing such bridge,
- (b) interest on such expenses, at the rate of four per centum per annum, and
- (c) the capitalised value of the estimated cost of maintaining such bridge, and of renewing it, if it requires periodical renewal;

(2) no toll-bar shall be established, or tolls levied, on or in respect of any bridge the cost or estimated cost of which, as indicated in clauses (a), (b) and (c) of proviso (1), was or is less than five thousand rupees.

“86B. The District Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 86A of this Act.
Lease of toll-bar.

(Cf. Ben. Act III of 1904, s. 164.)

The Bengal Local Self-Government (Amendment) Bill, 1904.

(Clause 27.)

“86C. (1) The following persons and things shall be exempted
Exemptions **from payment of tolls at any toll-bar established under section 86A of this Act, namely:—** [Cf. Ben. Act III of 1884, s. 168.]

- (a) Government stores, and persons in charge thereof;
- (b) police-officers, other public officers travelling on duty, District Board officers so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such property;
- (c) conveyance carts and other vehicles and animals belonging to the District Board, and persons in charge thereof; and
- (d) any other class of persons or things which may be exempted by order of the District Board.

(2) In granting a lease of any toll-bar, the District Board may stipulate that any servants and property of the District Board and any other persons and things shall be exempted from payment of tolls thereat.

“86D. (1) When it has been determined that tolls shall be levied
Rates of tolls. **at any toll-bar established under section 86A of this Act, the District Board shall make and publish an order specifying the rates at which the tolls shall be levied.** [Cf. Ben. Act III of 1884, s. 160.]

(2) Such rates shall be subject to the sanction of the Commissioner, and may from time to time be varied with the like sanction.

“86E. (1) A table of such tolls, legibly printed or written in the vernacular of the district, shall be hung up
Table of tolls to be hung up. **in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.** [Cf. Ben. Act III of 1884, s. 163.]

(2) In default of compliance with sub-section (1) of this section, the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues. [Cf. Ben. Act III of 1884, s. 166.]

“86F. The District Board, or the lessee of any toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the rates specified under section 86D of this Act. [Cf. Ben. Act III of 1884, s. 167.]
Power to compound for tolls.

“86G. Any toll-collector or lessee of a toll-bar established under section 86A of this Act may refuse to allow any person to pass through the toll-bar until the proper toll has been paid. [Cf. Ben. Act III of 1884, s. 161.]
Power of toll-collector or lessee in case of refusal to pay toll.

“86H. Whoever, having driven through any such toll-bar any vehicle or animal which is not exempted from payment of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees. [Cf. Ben. Act III of 1884, s. 162.]
Penalty for refusing to pay toll.

“86J. If resistance is offered to any person authorised under this Chapter to collect tolls, any police-officer whom he may call to his aid shall be bound to assist him; and such police-officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties. [Cf. Ben. Act III of 1884, s. 161.]
Police-officers to assist.

“86K. If any person authorised under this Chapter to collect tolls, demands or takes any higher tolls than the tolls authorised under this Chapter, he shall be liable to fine which may extend to fifty rupees, and, in default of payment, to imprisonment for a term which may extend to one month. [Cf. Ben. Act III of 1884, s. 170.]
Penalty for taking unauthorised tolls.

The Bengal Local Self-Government (Amendment) Bill, 1904.
(Clauses 28-32.)

"86L. (1) When a toll-bar has been established and tolls have been levied, under section 86A of this Act, in respect of any bridge, the District Board shall, at the end of each financial year, publish, by causing to be posted up at their office, an abstract account showing—

- (a) the amount of the expenses incurred in constructing the bridge;
- (b) the amount of interest which has accrued due on such expenses;
- (c) the capitalised value of the estimated cost of maintaining the bridge and of renewing it, if it requires periodical renewal; and
- (d) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) As soon as such expenses, interest, and capitalised value have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied on such bridge."

New section 88A

28. After section 88 of the said Act the following shall be inserted, namely:—

"88A. A District Board may, with the sanction of the Lieutenant-Governor, contribute such annual or other sum as may be agreed upon towards the cost of the construction, repair and maintenance under the provisions of the Bengal Municipal Act, 1884, of water-works, wells or tanks within the district."

Amendment of section 100.

29. (1) In section 100 of the said Bengal Local Self-Government Act of 1885, for the words "subject to any rules made by the Lieutenant-Governor" the words "subject to such rules and restrictions as the Lieutenant-Governor may from time to time prescribe" shall be substituted.

(2) After clause (3) of the same section the following shall be inserted, namely:—

"(3a) establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle and other animals; and charge such fees for the use of such dispensaries as may, from time to time, be approved by the Commissioner;

"(3b) appoint and pay qualified persons to prevent and treat diseases of horses, cattle and other animals;

"(3c) provide for the improvement of the breed of horses, cattle and asses, and for the breeding of mules, and."

Amendment of sections 105 to 107 and 117.

30. (1) In sections 105, 106, 107 and 117 of the said Act, for the words "Local Board", wherever they occur, the words "District Board" shall be substituted.

(2) In the said section 107, after the words "village roads" the words "and bridges" shall be inserted.

Amendment of section 108.

31. In section 108 of the said Act, after the word "roads", in both places in which it occurs, the words "and bridges" shall be inserted.

Amendment of section 109.

32. In section 109 of the said Act, after the words "village roads", where they first occur, the words "and bridges" shall be inserted.

The Bengal Local Self-Government (Amendment) Bill, 1904.
(Clauses 33-37.)

Amendment of section 110

33. In section 110 of the said Act,—

- (a) for the words "Local Board", in the first and third places in which they occur, the words "*District Board*" shall be substituted, and
- (b) for the words "Local Board", in the second place in which they occur, the words "*District Board or of a Local Board*" shall be substituted.

New section 111

34. For section 111 of the said Act the following shall be substituted, namely :—

"111. Every Union Committee shall perform such functions as may be transferred to it by notification under the *Cattle-trespass Act, 1871, section 31.*"

[*Cf. Ben. Act III of 1888, s. 111.*]
1 of 1871.

New section 114.

35. For section 114 of the said Bengal Local Self-Government Act of 1885 the following shall be substituted, namely :—

"114. An Union Committee shall, if required to do so by the *Magistrate of the district*, provide for the registration of births and deaths within the Union, and shall submit such returns thereof as the said *Magistrate* may direct."

New section 119A.

36. After section 119 of the said Act the following shall be inserted, namely :—

"119A. (1) In the performance or exercise of any duties or powers imposed or conferred upon it by this Act, a Union Committee shall act as the agent of, and shall be subject to the control of, the *District Board*."

[*Cf. Ben. Act III of 1885, s. 104.*]

(2) Notwithstanding anything in the foregoing provisions of this Act, the *District Board* may, by order in writing,—

(a) direct that any specified Union Committee shall cease to perform any of the said duties, except those mentioned in section 114 of this Act, or to exercise any of the said powers, or

(b) with the previous sanction of the Commissioner, direct that any specified Union Committee shall act as the agent of, and shall be subject to the control of, a *Local Board*, instead of the *District Board*, either for all purposes or for the purposes specified in the order.

(3) Any order made under sub-section (2) of this section may be revoked by the *District Board* by which it was made :

Provided that no order made under clause (b) shall be revoked except with the previous sanction of the Commissioner.

(4) So long as an order made under clause (a) of this section with respect to any Union Committee continues in force, the duties and powers to which it relates shall be performed and exercised by the *District Board or Local Board* instead of by that Committee.

(5) So long as an order made under clause (b) of this section with respect to any *Local Board* continues in force, the references to the *District Board* in the foregoing sections of this Chapter shall, so far as may be necessary, be read as if made to such *Local Board*."

Amendment of section 130.

37. (1) In the first paragraph of section 130 of the said Act, for the words "by the *Local Board*" the words "by the *District Board or Local Board* to which the Committee is, for the purposes of this section, subordinate" shall be substituted.

(2) In the third paragraph of the same section, after the words "*Local Board*" the words "*or Union Committee*" shall be inserted.

The Bengal Local Self-Government (Amendment) Bill, 1904.
(Clauses 38-42.)

New section 133.

38. For sections 133 and 134 of the said Act the following shall be substituted, namely:—

"133. (1) If a dispute arises between two or more Union Committees which are, for the purposes of this section, subordinate to the same District Board or Local Board, the matter shall be referred to such Board, and the decision of the Board thereon shall be final and binding.

(2) If a dispute arises between two or more Union Committees within the same district, and such Committees are not all, for the purposes of this section, subordinate to the same Local Board, the matter shall be referred to the District Board, and the decision of the District Board thereon shall be final and binding."

Amendment of section 138.

39 (1) To clause (a) of section 138 of the said Act the following shall be added, namely:—

"and determining the authority who shall decide disputes relating to such elections."

(Of. Ben. Act
111 of 1904, s.
16)

(2) To clause (g) of the same section the following shall be added, namely:—

"and declaring what circumstances shall be a disqualification for continuance of employment under that section."

(3) To clause (k) of the same section the following shall be added, namely:—

"the training and employment of medical and veterinary practitioners, and the promotion of free vaccination."

(4) After clause (l) of the same section the following shall be inserted, namely:—

"(ll) prescribing, for the purposes of section 86A of this Act, the mode of ascertaining the capitalised value of the estimated cost of maintaining bridges, and of renewing any bridge which requires periodical renewal, and the mode of determining what class of bridges requires periodical renewal"

(5) In clause (p) of the same section, after the word "animals" the following shall be inserted, namely:—

"the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat disease of horses, cattle and other animals, the improvement of the breed of horses, cattle and asses, the breeding of mules."

Amendment of section 142.

40. In section 142 of the said Act, before the words "or Union Committee" the words "Local Board" shall be inserted.

Addition to section 144.

41. To section 144 of the said Act the following shall be added, namely:—

"Nothing in this section shall apply to the payment of fees to a vakil or pleader for services rendered by him in his professional capacity."

Amendment of Schedule III.

42. In the heading to the third Schedule to the said Act, for the words "Districts in every sub-division of which a Local Board shall be established" the words "Districts in which the election system is in force for the nomination of members of the Local Board" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make various amendments in the Bengal Local Self-Government Act, III of 1886, for the following purposes, namely:—

- (1) to give legal authority to the practice now already in vogue under which District Boards incur expenditure on veterinary objects;
- (2) to impose tolls on newly-constructed bridges until the initial cost and the capitalised value of the cost of maintenance and renewal have been recovered;
- (3) to give power to levy a rate to enable District Boards to pay sums guaranteed by them by way of interest on capital expended on railways or tramways; and
- (4) to remove certain flaws and omissions in the Act which experience of its working has brought to light.

The amendments are explained in detail in the following notes.

NOTES ON CLAUSES.

Clause 3 repeals—

- (1) the words "or of the Districts of Singhbhum, the Sonthal Parganas, or the Chittagong Hill-tracts" in section 1. This repeal is required partly because one of these Districts (Singhbhum) is now considered to be sufficiently advanced to be admitted to the benefits of Local Self-Government, and partly because the specific exception in the case of the Sonthal Parganas and the Chittagong Hill-tracts is now unnecessary, having been superseded by Regulation III of 1872, section 3 (as amended by Regulation III of 1899, section 3), in the case of the former, and by Regulation I of 1900, section 4, in the case of the latter district;
- (2) the proviso in section 6. The first portion of this proviso is entered for repeal in order to permit of the abolition of Sadar Local Boards, which experience has proved to be unnecessary and which have already been abolished in some districts in which the proviso does not stand in the way. The rest of the proviso assumes that a Union Committee cannot exist except where a Local Board has been created. This principle has been proved to be inconvenient and difficult of working. It is, therefore, proposed, by later clauses of the Bill, to subordinate Union Committees primarily to the District Board instead of the Local Board;
- (3) section 16, its provisions being embodied in a new section 19A;
- (4) section 24, its provisions being reproduced in amended form in a new section 29A;
- (5) the last paragraph of section 25, its provisions being embodied in a modified form in the new section 29A;
- (6) section 34, its provisions becoming unnecessary in view of the amendments made in section 32(g);
- (7) section 72. The repeal of this section is necessary, as it will be superseded by the new section 114 which appears in clause 35 of the Bill. Section 114 as it now stands in the Act requires every Union Committee to provide for the registration of births and deaths, and to submit such returns as the Local Board may direct. But the registration of births and deaths is not, and never has been, under the Local Board, and it is not now contemplated that a Local Board, even if it possessed this power, should exercise, except by delegation, control over Union Committees. In point of fact the registration of vital statistics is carried out by the police under the control of the Magistrate, and there is no intention of transferring this work to District or Local Boards. In the few rural areas (the colliery tracts of Burdwan and a portion of the Darjeeling district) in which Bengal Act IV of 1873 (which provides for the compulsory registration of births and deaths) has been brought into force, the District Magistrate, and not the District or Local Board, is and will continue to be the controlling authority. For these reasons it is proposed to alter section 114 so as to provide that a Union Committee shall register births and deaths only if required to do so by the District Magistrate;
- (8) the proviso to section 73. This proviso is rendered unnecessary by the amendment made in section 108 by clause 31 of the Bill;
- (9) the words in section 108 "A Local Board shall exercise powers of supervision and control over all Union Committees within the area under its authority, and"
- (10) section 104.

These repeals are proposed as part of the policy of subordinating Union Committees to District Boards rather than to Local Boards.

2. Clause 3 amends section 10 of the Act, in order to provide for cases in which the members of a Local Board make default in electing representatives on the District Board, there being at present no legal means for dealing with such cases.

4. *Clause 4* introduces a new section 19 with the object of covering similar defects in by-laws, and a new section 19A, which reproduces the provisions of the existing section 16. The latter portion of the existing section 19 as to duration of a member's term of office. The references in section 19A to sections 17 and 18 (as to resignation and removal) are new, but are obviously required.

5. *Clause 5* amends section 22 so as to permit the election of Chairmen of District Boards by official designation in the case of districts in which the election of Chairmen is authorised.

6. *Clause 6* introduces a new section 23A to provide for cases of default in the election of a Chairman or Vice-Chairman of a District Board, the Lieutenant-Governor being empowered to intervene to fill the vacancy by making an appointment.

7. *Clause 7* amends section 25 of the Act so as to permit the election of Chairmen of Local Boards by official designation. The absence of such a provision gives rise to frequent difficulties in cases where the Chairman is the Sub-divisional Officer, when it often happens that his transfer or absence on short leave occasions an interregnum, prolonged by the almost inevitable delay on the part of the Board in carrying out the necessary formalities for appointing a successor or substitute.

8. *Clause 8* amends section 26 so as to provide for cases of default in the election of a Vice-Chairman of a Local Board, the Lieutenant-Governor being empowered to intervene to fill the vacancy by making an appointment.

9. *Clause 8* also introduces a new section 26A to authorise the grant of leave to Chairmen and Vice-Chairmen of District and Local Boards.

10. *Clause 9* makes consequential amendments in section 29 of the Act, by providing for the filling of casual vacancies caused by the grant of leave.

11. *Clause 9* further introduces a new section, 29A, which reproduces the provisions of sections 24, 25 (last paragraph), 26 (second paragraph), and 29 (third paragraph) of the existing Act, as to a Chairman's and Vice-Chairman's term of office, with the addition of a sub-section as to the term of office of a Chairman or Vice-Chairman acting for another who is on leave.

12. *Clause 10* amends section 32, clause (g), mainly in order to remove an inconsistency between its provisions and those of section 34. The latter section, which it is now proposed to repeal, authorises the framing of leave rules for officers of District Boards, with the approval of the Commissioner, while under section 32 rules for the same object are subject to the sanction of the Lieutenant-Governor. In practice the latter is the procedure adopted, and the addition of the words "leave allowances" to section 32 (g) is the sole amendment of that section which is required in consequence of the repeal of section 34.

The words "punishment (including suspension and removal)" are substituted for the words "suspension and removal" in section 32, clause (g), in order to enlarge the scope of the section by legalising the imposition of penalties for minor offences or breaches of discipline.

13. *Clause 11* introduces a new section authorising District Boards to make rules for the creation and management of a Provident or Annuity Fund. The adoption of the system of Provident Funds for employes of District Boards was approved in principle by the Government of India, while at the same time the absence of a specific provision of law authorising the creation of such Funds was pointed out. On the introduction of the system, District Boards were instructed to act on the assumption that power would be taken at the first opportunity to give legal effect to it, and it is with this object that the enactment of clause 11 of the Bill is now proposed.

14. *Clause 12* makes certain amendments in section 36 in pursuance of the policy of subordinating Union Committees to District Boards rather than to Local Boards.

15. *Clause 13* provides for the election of a Chairman of a Union Committee, for which there is at present no provision of law.

16. *Clause 14* makes certain amendments in section 44 in pursuance of the policy of subordinating Union Committees to District Boards rather than to Local Boards.

17. *Clause 15* introduces new sections, 46A to 46E, as to the levy of a rate to enable District Boards to pay sums guaranteed by them by way of interest on capital expended on railways or tramways, and clause 26 (f) introduces a proviso to section 52 to declare the procedure to be followed by District Boards before giving such guarantees. The Government of India have attached great importance to the introduction of District Boards into the field of railway enterprise. They have pointed out that there are many places in Bengal where light railways would prove of great service to local trade, and that District Boards would be the appropriate agency to further the development of the country by aiding the construction of such lines. Under existing conditions, however, there seems to be little hope of the assistance of District Boards being forthcoming in Bengal, as it is improbable that many District Boards would at any time have a sufficient surplus of income to enable them to embark on projects of the kind. In these circumstances it was suggested that District Boards should be empowered to impose a special cess, to be utilised for the purpose of railway construction; and that section 57 (ii) and the proviso to section 56 of the Madras

Local Boards Act, 1884, should be adapted so as to secure that the power to impose an additional tax should be purely permissive, and that it would rest with the District Board alone to take action. Clauses 15 and 26 (8) have been inserted in the Bill to give a modified effect to these views. The functions of District Boards in Bengal will continue in practice to be confined to the guaranteeing of interest on capital raised by outside enterprise, and are not likely to be extended to the investment of the Board's own capital in works of construction.

17. *Clause 16* adds an *Explanation* to section 48 with the object of making it clear that the Commissioner, in dealing with estimates framed by District Boards, is to have the same powers as the District Magistrate, as defined in section 47. The absence of an express declaration to this effect has given rise to practical difficulties.

18. *Clause 17 (1)* amends section 52 (3) in order to bring it into closer accordance with the law as now contained in Act I of 1871, section 31, as amended by Act I of 1891.

19. *Clause 17 (2)* introduces an additional clause into section 52, which is necessitated by the new provisions [sections 86A. *et seq.*] relating to tolls on bridges.

20. *Clause 17 (3)* introduces an additional clause in section 52, which is necessitated by the new provisions [sections 46A. *et seq.*] relating to the levy of a rate for payment of interest on capital expended on railways or tramways.

21. *Clause 18 (1)* makes an addition to section 58, clause *Fifthly*, with the object of legalising the payment from the District Fund of sums assigned by the District Board to a Local Board or Union Committee. The power to make such payments, though contemplated throughout the Act, is nowhere clearly given by the Act as it now stands.

22. *Clause 18 (2)* amends section 53, clause *Sixthly* with the objects of (1) extending to delegates of District Boards the concession granted by section 69 (2) of the Bengal Municipal Act, III of 1884, to Municipal Commissioners, as to travelling expenses for attending meetings in connection with the election of members for the Bengal Legislative Council; and (2) legalising the payment from the District Fund of travelling allowance to members of District Boards and Local Boards in performing journeys for carrying out any of the objects of the Act.

23. *Clause 19* amends section 56 (1) with the object explained in paragraph 18, *ante*.

24. *Clause 20* is necessitated by the additions made by clause 27.

25. *Clause 21* amends section 61 with the object explained in paragraph 18, *ante*.

26. *Clause 22* makes an addition to section 63, in order to legalise the grant from the District Fund of contributions in aid of secondary schools in cases where they are not under the direct control of the District Board. It might have been supposed that the power already conferred by section 63 of undertaking the maintenance and management of schools under public management includes the minor power of assisting them with funds, but this view has been overruled. It is therefore contemplated to remedy the deficiency in the manner shown in this clause, and also to provide for the furtherance of education by taking power to authorise similar contributions to schools under private management.

27. *Clause 23* makes an addition to section 67 with the object of empowering District Boards to devote a portion of their funds to the training and employment of medical practitioners. The practice has for some time existed in Bengal, and the occasion of the amendment of the Act is taken to give it the authority of law.

28. The same provision is extended to the case of veterinary practitioners. Some time ago, when the Civil Veterinary Department in Bengal was in process of formation, District Boards were invited to co-operate, and were asked in particular to what extent they were prepared to utilise the services of passed Veterinary Assistants. It then came to notice that doubts prevailed whether, under section 100 of the Bengal Local Self-Government Act, District Boards were legally competent to contribute to veterinary measures, and it was further found that many of these bodies were disposed to rely on this legal difficulty as an excuse for declining to spend money in the manner suggested. The difficulty was reported to the Government of India, and that Government requested that, if there were any doubt whether local bodies, and especially District Boards, could legally contribute towards the maintenance of veterinary projects, the law might be amended in order to enable them to do so. The necessary additions have therefore been made to section 67 of the Act.

29. *Clause 23* also contains a provision empowering District Boards to spend money on the promotion of free vaccination. Though the licensed system of vaccination is generally in force throughout Bengal, occasions at times arise on which District Boards find it necessary to employ paid vaccinators, subject to the supervision of the Civil Surgeon (who is the Superintendent of Vaccination in all districts), to operate free of charge. The law as it stands does not expressly authorise this procedure, but the difficulty is surmounted in practice by the expedient of permitting District Boards to devote funds to this object under the head "Medical." The necessary legal powers will be attained by sub-clause (b) of the proposed addition to section 67.

30. *Clause 24* has been inserted with the object of extending to servants of District Boards the concessions granted by the Government of India as to the treatment of Government servants at the Pasteur Institute at Kasauli.

31. *Clause 25* amends section 73 in order to prevent conflict between that section and sections 108 *et seq.* of the Act.

32. *Clause 26 (1)* makes an amendment in section 82 of the Act. By that section the Local Government is empowered to permit District Boards to guarantee the payment of interest on capital expended on works of communication. But the Government of India have directed that, in view of the possibility of the liability for the fulfilment of such guarantees being ultimately shifted to Imperial revenues, guarantees should not be given without the previous sanction of the Government of India; and consequently all guarantees of the kind that may be given must, in existing circumstances, be regarded as subject to the sanction of the Governor General in Council. In view, however, of the importance of this requirement, the Government of India have expressed a desire that it should be placed on a statutory basis. The words "Lieutenant-Governor," in section 82 of the Act, have accordingly been replaced by the words "Governor General in Council."

33. *Clause 26 (2)* adds a proviso to section 82 as part of the new scheme of taxation which is explained in paragraph 16, *ante*.

34. *Clause 27* introduces a series of new sections, numbered 86A to 86L, to authorise District Boards to impose tolls on newly-constructed bridges until the initial cost and the capitalised value of the cost of maintenance and renewal have been recovered. The principle is no new one in Bengal, being already embodied in the Bengal Municipal Act, III of 1884. The provisions contained in clause 27 of the Bill are in the main reproduced from sections 158 to 170 of the Municipal Act, with the omission of matter relating to tolls on roads. The following points may be noticed in connection with the proposed new sections.

35. *Section 86A*.—This has been drafted so as to confine the power of taking tolls to the case of bridges constructed out of the District Fund and completed after the commencement of the new law.

36. The rate of interest is in proviso (b) to section 86A put at 4 *per cent* instead of, as in the Municipal Act, 6 *per cent*. The latter Act reproduced a rate of interest in force more than 20 years ago.

37. *Proviso (2)* will prevent the levy of tolls on any but large bridges. It is estimated that the minimum cost of a bridge over a river requiring a ferry throughout the year is Rs. 5,000, and this limit is tentatively taken in the Bill.

38. *Section 86C* reproduces the provisions of section 168 of the Bengal Municipal Act, 1884, except the portions which were repealed by the Indian Tolls (Army) Act, II of 1901. The exemptions from toll which are enacted by the latter Act will of course continue after the passing of the present Bill.

39. *Section 86H*.—Section 162 of the Bengal Municipal Act, 1884, declares that whoever, with intent to evade payment of toll, fraudulently avoids passing through a toll-gate shall be liable to fine. Such a provision may be suitable in a municipality and in the case of a toll-bar on a road (though its utility has not been tested), but it is liable to abuse in the mufassal, and can hardly be necessary when the toll-bar is on a bridge over an unfordable river. The section has therefore not been reproduced in the Bill.

40. Section 163 of the Bengal Municipal Act, 1884, provides that in case of non-payment of toll the vehicle or animal or any part of its burden may be seized and sold. This section is possible in a town, but would be very dangerous in the mufassal, where it would be difficult to supervise the action of the toll-bar-keeper. The section has therefore not been reproduced in the Bill. It is believed that sections 86G, 86I and 86J, in the Bill, will be sufficient to secure the due payment of tolls.

41. *Clause 28* introduces a new section, 88A, with the object of legalising contributions from the District Fund towards the improvement of the water-supply of municipalities situated within the district. The legality of such an allocation of District Funds formed the subject of a discussion in 1893, when a contribution was made for this purpose by the Shahabad District Board to the Municipality of Arrah. The Legal Remembrancer of the day decided in its favour, but it seemed that such an interpretation of section 88 might at any time be called in question, in view of the declaration in section 1 that the Act shall not extend to any place or town to which the provisions of the Bengal Municipal Act 1884, have been extended. The object is clearly one to which a portion of the District Fund may very properly be diverted, seeing that a pure water-supply in a municipality is an advantage to the district in general. Section 88A has accordingly been framed with a view to preventing any dispute on the point, the contributions being made subject to the approval of the Lieutenant-Governor.

42. *Clause (2)* introduces new sub-clauses 3(a), 3(b) and 3(c) in section 100, in order to legalise expenditure incurred by District Boards for veterinary purposes. This matter is explained in paragraph 28, *ante*.

43. *Clause 30 (1)* amends sections 105, 106, 107 and 117 with the object of subordinating Union Committees primarily to the District Board instead of the Local Board.

44. *Clauses 30 (2), 31 and 32* make certain additions to sections 107, 108 and 109 with the object of authorising Union Committees to undertake, where necessary, and subject to the provision of the new section 119A, the construction, maintenance and repair of bridges situated within the Union.

45. *Clause 33* amends section 110 with the object stated in paragraph 43, *ante*.
46. *Clause 34* amends section 111 with the object stated in paragraph 18, *ante*.
47. *Clause 35* amends section 114, and provides that a Union Committee shall register births and deaths only if required to do so by the District Magistrate, who will continue to be the controlling authority—see paragraph 1 (7), *ante*.
48. *Clauses 36, 37 and 38* introduce amendments with the object stated in paragraph 43, *ante*.
49. *Clause 39* extends the rule-making power conferred by section 138 (a), so as to enable the Lieutenant-Governor to determine the authority who shall decide disputes concerning elections. The precedent followed in this case is that of section 15 of the Bengal Municipal Act, 1884, as amended by Bengal Act IV of 1894.
50. An extension of the power of the Local Government to make rules is also proposed in the same clause to enable the Government to declare what circumstances shall be a disqualification for continuance of employment under section 33. Rules have recently been issued by the Government for regulating the retirement, under certain conditions, of District Engineers and other employés of District Boards on attaining the age of 55 years. The existing Act contains no definite authorisation of such rules, and it is desirable to give them at the earliest opportunity a strictly legal basis. The clause is expressed in general terms in order that it may cover disqualifications, other than that of age—indebtedness, for example—the rules on which subject do not definitely apply under the existing provisions of the law to officers paid from Local Funds.
51. Further extensions of the power of the Local Government to make rules are proposed so as to admit of the making of rules to regulate the training and employment of medical and veterinary practitioners, the promotion of free vaccination and the establishment and maintenance of veterinary dispensaries, and to prescribe the mode of ascertaining the capitalised value of the estimated cost of maintaining and renewing bridges.
52. *Clause 40* amends section 142 so as to remedy a verbal omission.
53. *Clause 41* is proposed in order to exclude pleaders, who are professionally engaged by a District Board of which they are members, from the operation of section 144 of the Act.
54. *Clause 42* amends the heading to Schedule III in consonance with the proposal to take power to abolish Sadar Local Boards, and brings it into accordance with the provisions of section 9 of the Act.

L. P. SHIRRES.

The 26th March, 1904.

CALCUTTA ;
The 28th March, 1904. }

F. G. WIGLEY,
Secretary to the Bengal Council.



The Calcutta Gazette.

WEDNESDAY, FEBRUARY 10, 1904.

PART IVA.

Proceedings of the Bengal Legislative Council.

GOVERNMENT OF BENGAL

LEGISLATIVE DEPARTMENT.

*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Tuesday, the 2nd February, 1904.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. L. HARE, C.I.E.
The Hon'ble MR. B. L. GUPTA.
The Hon'ble MR. J. T. WOODROFFE, *Advocate-General of Bengal*.
The Hon'ble MR. W. C. MACPHERSON, C.S.I.
The Hon'ble MR. D. B. HORN.
The Hon'ble MR. L. P. SHIRRES.
The Hon'ble MR. A. EARLE.
The Hon'ble MR. R. T. GREER, C.S.I.
The Hon'ble MR. T. K. GHOSE.
The Hon'ble MR. H. ELWORTHY.
The Hon'ble RAI TARINI PERSHAD, BAHADUR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.
The Hon'ble BABU SALIGRAM SINGH.

NEW MEMBER.

The Hon'ble MR. D. B. HORN took his seat in Council.

CHANGE IN THE ORDER OF BUSINESS.

The Hon'ble THE PRESIDENT said:—"I propose to suspend the Rules of Business to this extent that the Legislative Business will be taken first, for the convenience of Hon'ble Members for whom this hour of the morning is inconvenient to meet."

THE BENGAL PUBLIC PARKS BILL.

The Hon'ble MR. BUCKLAND presented the Report of the Select Committee on the Bill for the regulation of Public Parks in Bengal.

THE BENGAL SETTLED ESTATES BILL.

The Hon'ble MR. BUCKLAND also presented the Report of the Select Committee on the Bill to facilitate the family settlement of estates in Bengal.

THE BENGAL TRAMWAYS (AMENDMENT) BILL.

The Hon'ble MR. SHIRRES moved that the Bill to amend the Bengal Tramways Act, 1883, be taken into consideration at the next meeting of the Council.

The Motion was put and agreed to

RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS.

The Hon'ble MR. MACPHERSON moved that a Select Committee, consisting of the Hon'ble Mr. Woodroffe, the Hon'ble Dr. Asutosh Mukhopadhyaya and the Mover, be appointed to consider certain amendments which have been suggested in the Rules for the conduct of the Legislative Business of the Council. He said:--

"The Rules of Business of the Council are made by the Lieutenant-Governor in Council under the provisions of section 48 of the Indian Councils' Act of 1861.

"Our rules were last revised 14 years ago in the year 1890 when the Hon'ble Sir Stuart Bayley was President of the Council; and the revision was made at the President's instance. Revision of some of the rules is now proposed at your Honour's instance in order to expedite and improve the work of the Council. The amendments proposed are explained in a note which has been laid on the table.

"Briefly, the first object of the proposed amendments is to save unnecessary delay and formalities in the early stages of introduction of Bills and reference of them to Select Committees. It has been of common occurrence, as the volumes of Proceedings of the Council will show, to suspend the Rules in order to expedite business at these stages and to save Hon'ble Members the trouble of attendance at merely formal sittings. But frequent suspensions of Rules are open to obvious objection; and when a rule is found to be unsuitable the better course seems to be, not to suspend it frequently, but to amend it. The amendments proposed under this head, if approved, will assimilate the practice of the Council in dealing with Bills in their early stages to that of the Governor General's Council.

"The second object proposed is to amend the rule which requires all Bills to be published not only in English but also in the Vernaculars. The rule in the Governor General's Council is that such publication shall be made in the vernacular as the Council in each case may decide to be necessary for the purpose of giving notice to the communities affected by the Bill. It is proposed to adopt this rule for our Council. The other amendments proposed are formal and do not require any remarks from me.

"The rules might perhaps be amended with advantage in particulars other than those proposed in the note which has been laid on the table. But the present intention is to meet practical difficulties which have actually arisen; and unless any really important proposals be brought forward in Committee for further amendments than those set out in the Explanatory Note, it would be an advantage to save technical discussions and to confine the present work of revision within limits.

"It will be in accordance with the precedent of the last occasion on which the rules were revised that a Select Committee should be appointed to consider the amendments proposed, and I accordingly submit to the Council the motion which stands in my name."

The Hon'ble MR. WOODROFFE said:—"There is one matter to which the Hon'ble Member has not alluded, but which I think would come within the principles to which he has referred, and that is the insertion of a rule providing for the re-commitment of Bills to a Select Committee when necessary to do so, and that such re-commitment might be either general, or limited to particular matters in accordance with the rules which are to be found on this subject in May's Parliamentary Practice."

The Hon'ble MR. MACPHERSON said:—"The Hon'ble Advocate-General's suggestion is covered by one of the amendments proposed."

The Motion was then put and agreed to.

QUESTIONS AND ANSWERS.

EXTRA PLATFORM AT SHAIKPURA STATION.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

(1) I have the honour to lay before Government the following for its favourable consideration:—

- (a) that Shaikpura, in the district of Monghyr, Bhagalpur Division, is an important place, having a Railway Station (South Behar Railway); and not only the town of Shaikpura, but also Hosainabad and other adjoining places, are important owing to very many respectable and rich Muhammadan families having family residences there from time immemorial;
- (b) that it is a well-known fact that the *purdah* system of the females, in Muhammadan as well as in Hindu respectable families, is strictly observed and maintained;
- (c) that the Shaikpura Railway Station has a platform on only one side of the line and not on the other,
- (d) that for want of a platform on one side of the line the females (*purdah* ladies) feel great difficulty and are inconvenienced by getting into, and coming out of, the railway carriages on that side of the line;
- (e) that for want of a platform on one side of the line the *purdah* ladies of respectable families have to go, in *palkies* and otherwise, long distances to catch the trains at the stations which are provided with platforms on both sides of the line, thereby entailing unnecessary expense and trouble to them.

(2) Will the Government be pleased to draw the attention of the Railway Authorities to the importance of the necessity of supplying the want, by keeping a platform on each side of the line?

The Hon'ble MR. HORN replied:—

"The Railway Authorities have already had under consideration the provision of a second raised platform at Shaikpura station on the South Behar Railway, but have been unavoidably forced to defer it owing to the heavy expenditure already incurred on the construction of the line and the poor returns received from it. They are desirous of providing every convenience for the travelling public, and with this end in view trains are dealt with, as far as possible, on that side of the line on which the raised platform is situated. In the circumstances no further expenditure can, in the interests of the shareholders of the Company, be incurred under present conditions in supplying extra platform accommodation at Shaikpura station."

THE DEOGHUR SUB-DIVISION.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said :—

I beg to draw the attention of Government to the fact that the Deoghur Sub-division, amongst other sub-divisions of the district of the Sonthal Parganas, is far advanced in education, manners, customs, habits of life and business, and that the number of the Sonthals, compared with the number of Non-Sonthals, living in that sub-division, is very small; whereas it is very different in other sub-divisions of that district.

(a) Will the Government be pleased to place on the table a statement from the last Census, showing the Sonthal and Deckoo (other than Sonthals) populations separately, living in the following sub-divisions of the district of the Sonthal Parganas :—

- | | |
|---------------|------------|
| (1) Deoghur. | (4) Dumka. |
| (2) Jamtara. | (5) Godda. |
| (3) Rajmahal. | (6) Pakur? |

(b) Will the Government be pleased to consider and to state whether the Deoghur Sub-division, in its present condition, specially since the opening of the railway lines and from other points of view, should or should not be brought under the category of places enjoying the boon of the operation of laws and regulations in force there; no additional expenditure by Government being rendered necessary by the change, and the officers now employed in that sub-division being allowed to act as officers administering laws and regulations in regulation districts, and subject to such other condition or conditions or changes as may be deemed fit and desirable?

The Hon'ble MR. MACPHERSON replied :—

“(a) The statement asked for is placed on the table.

“(b) The present would be a very inopportune time to make any change in the system of administration of the Deoghur Sub-division, as the sub-division is now under settlement. Nor is the Lieutenant-Governor of opinion that any case exists for making the change indicated by the Hon'ble Member. He is not prepared therefore to take up the question.”

Statement showing Sonthal and Non-Sonthal population of each Sub-division of the Sonthal Parganas district.

(1) Sub-division	(2)		(3)
	Sonthals.		Others.
Deoghur	...	37,043	260,360
Jamtara	...	73,203	116,596
Rajmahal	...	110,202	166,501
Dumka	...	186,408	230,453
Godda	...	132,383	257,940
Pakur	...	126,232	112,416

GRIEVANCES OF SONTHALS OF THE SERAIKHELA STATE.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said :—

I beg to draw the attention of the Government to an article in the *Amrita Bazar Patrika* of the 12th December last, in its 4th column, page 5, complaining of the conduct of some Raj and British officials towards a number of Sonthals in “Seraikhela,” a tributary State in Chota Nagpur, about 10 miles from Chaibassa, the principal town of Singhbhum.

(a) Is it a fact that a memorial has been submitted by the Sonthals to the Government representing their grievances and seeking redress?

(b) If it has, will the Government be pleased to state whether an inquiry has been ordered?

(c) If the complaint be well founded, will the Government be pleased to take serious notice of the conduct complained of to prevent a recurrence of similar instances of oppression upon the poor semi-barbaric Sonthals?

The Hon'ble MR. MACPHERSON replied:—

"It is not a fact that a memorial from a number of Sonthals of the Sonmukhela State representing their grievances and seeking redress has been addressed to Government. A memorial from a proclaimed offender of the Sonmukhela State, named Debi Sonthal, who is absconding from a criminal charge, was received by Government last month. His counsel, who submitted the memorial, has been informed that when he surrenders himself for trial, his grievances, if any, will be duly inquired into, but that Government cannot consider a memorial from a fugitive from justice."

SUB-DEPUTY COLLECTORS AND THE PENSION RULES.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

I beg to draw the attention of Government to a question asked by me relating to the existing rules as to whether service in the grades of Sub-Deputy Collectors, before confirmation, does or does not count for pension, as well as the answer of the Hon'ble Mr. Hare, which was to the effect that "under the existing rules such service did not count for pension, and that the subject was under the consideration of this Government," *vide* Abstract of the Council Proceedings, dated the 4th April last, page 102; and to request the favour of being informed of its decision, if any has since been arrived at?

The Hon'ble MR. MACPHERSON replied:—

"The question of reckoning service in the grades of Sub-Deputy Collectors prior to confirmation towards pension has been referred for the decision of the Government of India, and the orders of that Government are awaited."

SALE OF COPIES OF ENACTMENTS AND NOTIFICATIONS, ORDERS, ETC., RELATING TO THE SONTHAL PARGANAS.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

(a) I beg to draw the attention of Government to the following facts:—

- (i) that there are many important Government letters and notifications laying down general principles of administration in the Sonthal Parganas, which are and have to be frequently referred to in Courts of that district;
- (ii) that copies of such letters and notifications, as well as copies of the Sonthal Civil Rules and the Regulations specially passed for that district are, as is understood, not sold to the public. These are Act XXXVII of 1855, Act X of 1857, Act V of 1859, Regulation III of 1872, Regulation II of 1886, Regulation III of 1886, Regulation V of 1893, and the Sonthal Parganas Rural Police Regulation, III of 1900, and the Sonthal Civil Rules lastly framed and passed in 1901;
- (iii) that for the above reasons the suitors generally and the legal practitioners, when authorised to act for them, are put to much inconvenience and difficulty.

(b) Will the Government be pleased to state whether it is open to the public to publish and sell the Government letters, notifications, Regulations, Acts and Civil Rules referred to above? If not, will the Government be pleased to consider the advisability of allowing publication of the same to be made on behalf of itself for sale to the public, and inform the Council of its decision in the matter?

The Hon'ble MR. MACPHERSON replied:—

"The special Acts and Regulations in force in the Sonthal Parganas are sold to the public separately, in Volume I of the Bengal Code and in the

'Reprint of Laws and of selected Notifications, Orders and Rules specially in force in the Sonthal Parganas,' which was published from the Bengal Secretariat Press in 1898.

"The former Rules of Civil Procedure in the Sonthal Parganas were published in the reprint of 1898 just named. The rules were revised in the year 1901, when a copy was given to each petition-writer in the district. The rules of 1901 are now again under revision.

"Notifications of Government are published in the Calcutta Gazette. Many of the Notifications relating to the Sonthal Parganas are contained in the reprint.

"Copies of letters issued by Government are not ordinarily sold to the public, but certain letters issued by Government have been included in the reprint; and the policy laid down in other letters has long since been incorporated in the rulings of the Courts which are available to the public. The stock of copies of the reprint of 1898 has been exhausted, and a new and revised edition will be published hereafter, probably after the completion of pending settlement operations.

"There is no objection to private publication of Rulings, Acts, Regulations, Notifications and Rules relating to the Sonthal Parganas. The Government publications would, however, have more authority."

THE PROVINCIAL AND SUBORDINATE EDUCATIONAL SERVICES.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

In answer to a question asked by the Hon'ble Maulvi Seraj-ul-Islam Khan Bahadur, on the 28th March, 1903, about the improvement of the prospects of the officers of the Provincial Educational Service, Government was pleased to answer:—

"The matter has lately come up again, and the question whether it is practicable to improve the prospects of the Provincial and Subordinate Educational Services is at the present time under the consideration of the Lieutenant-Governor."

Will the Government be pleased to state whether it has come to any conclusion in regard to this matter, and if so, what?

The Hon'ble MR. EARLE replied:—

"The question of improving the prospects of the Provincial and Subordinate Educational Services has been referred by the Lieutenant-Governor to the Government of India, and is, at the present time, under the consideration of that Government. It is inexpedient at this time to make any statement regarding the views of this Government on the subject."

WEARING OF SHOES IN THE DOCK.

The Hon'ble BABU BHUPENDRA NATH BASU asked:—

(1) Has the attention of the Government been drawn to an editorial paragraph published in the *Amrita Bazar Patrika* of the 19th December last, alluding to an order issued by the District Magistrate of Hooghly to the effect that no accused person should be allowed to enter the dock with shoes on, and noticing a case in which a gentleman belonging to an aristocratic family in Calcutta, who was involved in a fishery case, was compelled, in spite of his protest, to put off his shoes before he got into the dock?

(2) Considering that it is neither the policy of the Government nor the intention of law that law-abiding and respectable people, who have the misfortune to be involved in criminal cases, should be put to unnecessary indignities such as the order of the District Magistrate of Hooghly seeks to impose upon all accused persons, irrespective of their social position and of the nature of their offence, will the Government be pleased to direct the withdrawal or modification of the order so as to allay the alarm which the order has created among the people of Hooghly?

The Hon'ble Mr. MACPHERSON replied :—

"The Lieutenant-Governor has seen the paragraph in the *Amrita Basar* . *Patika* of the 19th December last, to which attention is drawn, and has made inquiries of the District Magistrate of Hooghly.

"It appears that the salutary provision of Rule 14, Chapter XV, of the Police Code, regarding the searching of prisoners so as to be satisfied that no offensive weapons are carried into Court, and that prisoners do not enter the precincts of the Court with their shoes on, had not been enforced in the Courts of the Hooghly district in respect at least of the last precaution. The District Magistrate therefore ordered in November last that the rule regarding shoes should be enforced. In his order he omitted to add the words which had been made an addition to the Code by the Police Order of 6th February, 1903. These words limit the order to prisoners 'who wear shoes of Indian fashion.' A few weeks after the Magistrate's order was issued, his attention was drawn to this omission; and he modified his order accordingly.

"In the case referred to, the Deputy Magistrate directed the accused to remove his shoes; and this was apparently done in accordance with the order without any protest. The Lieutenant-Governor has had no reason for directing the withdrawal or modification of the District Magistrate's order, as he had already of his own motion brought that order into strict conformity with the orders of Government."

FINANCIAL EFFECT OF THE PROPOSED TRANSFER OF CERTAIN DISTRICTS
TO ASSAM.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(1) Will the Government be pleased to prepare a statement for the information of the public, showing the amount of revenue and expenditure under each head of receipts and disbursements of each of the five districts of Bengal that are proposed to be transferred to Assam?

(2) And will the Government be pleased to state how the proposed transfer would affect the financial position of Bengal, and if it leaves Bengal poorer, how the deficiency is proposed to be met?

The Hon'ble Mr. SHIRRES replied :—

"A similar question was asked by the Hon'ble Dr. Asutosh Mukhopadhyaya in the Supreme Council on the 22nd January. In reply he was told that any consideration of financial details, such as were referred to in his question, would be premature at the present stage. When a final decision is arrived at, any adjustment that may be found necessary will be made in connection with the Provincial Settlement. It is not necessary to say more than this at the present time."

ORDER OF ROTATION FOR ELECTION OF MEMBERS FOR THE BENGAL
LEGISLATIVE COUNCIL.

The Hon'ble BABU BHUPENDRA NATH BASU said :—

Will the Government be pleased to lay on the table a statement showing the order of rotation of the different constituencies which vote for the election of Members to the Bengal Legislative Council, as was done in 1893 on the re-constitution of the Councils?

The Hon'ble Mr. MACPHERSON replied :—

"It was decided last year by the late Lieutenant-Governor to defer preparation of such a list as was published in the Bengal Government Resolution of 25th March, 1893, showing the rotation in which Municipalities and District Boards should exercise the privilege of nominating Members for the Bengal Council.

"His Honour does not consider that it would be expedient for him at present to cause such a statement to be drawn up. He proposes to take up the matter later."

EMPLOYMENT OF EUROPEANS AND EURASIANS AS CLERKS IN THE SECRETARIAT.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(1) Has the attention of the Government been called to an article appearing in the *Unity and the Minister* (an organ of the Brahmo Samaj) of the 27th December, 1903, under the heading "Extended employment of Europeans and Eurasians in the Bengal Secretariat clerical service"?

(2) Will the Government be pleased to make known its reasons for reserving 40 appointments in the superior grades of the clerical establishment of the Bengal Secretariat, carrying salaries between Rs. 60 and Rs. 400 a month, for Europeans and Eurasians?

(3) Is the Government aware that the reservation so made gives the following percentage of appointments to the reserved classes :—

Grade I.	Grade II.	Grade III.	Grade IV.	Grade V.	Grade VI.	Grade VII.	Grade VIII.	Grade IX.	Total Grades I to IX.
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
400	300	200	150	125	100	80	70	60	...
33·3	42·85	25	26·3	31·57	27·22	28·57	26·31	23·07	27·77

whereas the percentage of the reserved classes with reference to the general population of Bengal is only ·05?

The Hon'ble MR. EARLE replied :—

"The article in the *Unity and the Minister* of the 27th December last, and the question of the Hon'ble Member, appear to proceed on the assumption that the Notification of this Government of the 5th December, 1903, contemplates that Europeans and Eurasians should be more extensively employed in the Secretariat than has been the case in the past.

"2. This is not the case. It has always been accepted as necessary that a certain number of appointments in the Secretariat should be held by Europeans and Eurasians; but, under the system of examination in force, it was found that the requisite number was not being recruited. It was necessary to arrange for recruiting European and Eurasian clerks separately. The special cadre has been formed with the object of securing that the requisite number of officers of this class shall be available.

"3. The appointments reserved have been distributed between the several grades in accordance with what past experience has shown to be expedient."

SEPTIC TANKS AT RISHRA.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(1) Has the attention of the Government been drawn to a memorial addressed by the Hindu inhabitants of Rishra to the Magistrate of Hooghly, which appeared in the *Bengalee* of the 13th January last, in which they protest against the installation of septic tanks by the Hastings Jute Mills at Rishra?

(2) Is it the case, as the Chairman of the Serampore Municipality points out in his report to the Magistrate of Hooghly, which also was published in the *Bengalee* of the 13th January, that the intake of the Howrah Water-works is in close proximity to the places where the effluents from the septic tanks of the Rishra Mills have been arranged to fall into the river, and that they are not far from the intake of the Calcutta Water-works at Pulta?

(3) Is it the case, as observed by the Hindu inhabitants of Rishra in their aforesaid memorial to the Magistrate of Hooghly, that the site selected for the discharge of the contents of the septic tanks into the river is in the immediate vicinity of a Hindu temple and in the midst of a crowded locality?

- (4) Having regard to sanitary considerations and the necessity of preventing the pollution of the river and the affront to the religious feelings of the Hindu community which such pollution involves, especially when caused by converted human excreta, will the Government be pleased to direct in the terms of the recommendation of the Chairman of the Serampore Municipality that the discharges from the septic tanks at Rishra should not be permitted to go into the river, and that they be diverted into the fields, where they may be used as manure?

The Hon'ble MR. SHIRRES replied:—

"The memorial referred to in the first part of the question has been received by the Lieutenant-Governor.

"The intakes of the Howrah and Calcutta Water-works are respectively $1\frac{1}{2}$ and 4 miles distant from the mills; but they are situated above and not below the mills. The upward movement of the water owing to the tides has been believed not seriously to affect the position.

"The Commissioner reports that there is no temple near the outfall or any building except those belonging to the mill. The temple is described by the Magistrate as a small roadside temple, and is near the septic tanks on the other side of the road and not near the outfall, as described in the question.

"In regard to the last paragraph of the Hon'ble Member's question, the Hon'ble Babu Kali Pada Ghosh was informed at the meeting of 12th December that the matter is receiving attention. The owners and managers of mills have been informed that they should not arrange for the installation of septic tanks without obtaining approval of the Sanitary Board to the effluent arrangements. Meanwhile existing tanks are in every case being examined and the Rishra tank is being specially dealt with."

THEFT OF GHEE ON RAILWAYS.

The Hon'ble BABU BHUPENDRA NATH BASU asked:—

(1) Has the attention of the Government been called to an article which appeared in the *Bengalee* of the 24th January last, in which a statement appears showing the number of tins of ghee which have been stolen from the railway godowns or on transit within the last few months, entailing heavy loss on the dealers?

(2) Is the Government aware that such thefts of parcels are of frequent occurrence, and that those who are put to loss in consequence have no remedy against the Railway authorities under the form of Risk Notes at present in vogue?

(3) Is the Government aware that Mr. Robertson, the Special Railway Commissioner, recently deputed by the Government of India, is of opinion that the conditions attaching to the Risk Notes in use on Indian Railways are of a very onerous nature, and has recommended that the Indian form of Risk Notes should be assimilated to the English form?

(4) Will the Government be pleased to take such steps as it may deem fit with a view to prevent the frequent recurrence of thefts of this kind?

The Hon'ble MR. HORN replied:—

"The report in the *Bengalee* newspaper of the 24th of January as regards the theft of ghee may be accepted as correct, except that the thefts have been distributed throughout the East Indian Railway, and have not been confined to Howrah alone. The total number of tins shown in the statement was about 5,000, and the transactions were distributed over a period of about seven months. The total number of cases said to have been lost was 163, so that the percentage works out to 3.27. The total number of tins of ghee which are delivered monthly in Howrah approaches 100,000.

"Ghee is peculiarly liable to thefts because it is packed in tins of a very portable description, and because it is of high value, say, Rs. 40 per maund. Consigners invariably despatch at 'Owner's,' in preference to 'Railway,' risk, and do not avail themselves of the opportunity given by the Railway Company to lock properly the doors of wagons containing ghee consignments."

"This Government is aware that Mr. Robertson, Special Railway Commissioner, recommended in his report the assimilation of the Indian form of Risk Note to that used in England, but as the report is still with the Government of India, no more definite reply can be given to the question."

"Special steps are taken at Howrah to protect ghee consignments. Recent thefts are being inquired into; and certain prosecutions are being conducted. The matter has the Agent's careful attention."

THIRD CLASS MONTHLY TICKETS ON THE EAST INDIAN RAILWAY.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(1) Has the attention of the Government been drawn to an article in the *Bengalee* of the 24th January last, pointing out (a) that the rates at present charged by the East Indian Railway on third class monthly tickets between Howrah and Baidyabati are the same as used to prevail when third class fares were 3 pies per mile, and that, while the fares on monthly tickets for stations beyond Baidyabati have been reduced since third class fares were reduced to 2½ pies per mile, the rates between Howrah and Baidyabati have not been reduced, and (b) that the rates for monthly third class tickets for the same distance on the Eastern Bengal State Railway are much less than the rates on the East Indian Railway?

(2) Having regard to the class of people who avail themselves of these monthly tickets, will the Government be pleased to inquire into the matter and take such steps as it may think necessary to redress the grievance?

The Hon'ble Mr. HORN replied :—

"With reference to the article in the *Bengalee* newspaper of the 24th of January, regarding the charges for third class monthly tickets between Howrah and Baidyabati, it is correct that the charge at the present time is the same as when third class fares was 3 pies per mile. The charge, however, works out to 1½ pies per mile, assuming that 26 journeys are taken each way in the month. The fares between Howrah and the longer distance stations to which monthly tickets are issued have been reduced; but it has not been considered necessary to reduce for short runs. The charge for monthly third class tickets between Howrah and Baidyabati is Rs. 6, the distance being 15 miles. Taking corresponding stations on the Eastern Bengal State Railway, the charge to Barrackpore, which is 14 miles, is Rs. 4-6, and to Ichapur, which is 17 miles, the charge is Rs. 5-5."

"The Government of India, under the contract with the East Indian Railway, has no power to fix rates. They can only fix maximum and minimum charges per mile for each class. This they have done, and the rates charged by the East Indian Railway are within the maxima and minima thus fixed."

COMPLAINTS AGAINST KABULIS.

The Hon'ble BABU BHUPENDRA NATH BASU, in the absence of the Hon'ble Maulvi SERAJ-UL-ISLAM, KHAN BAHADUR, asked :—

(a) Has the attention of Government been called to an article in the *Tripura Hitavis* of the 19th January, 1904, complaining of the conduct of bands of Kabulis who go about in the mufassal, under the pretence of selling cloth, and commit oppression upon the villagers?

(b) Will the Government be pleased to direct the local authorities to take the necessary action for the removal of the complaint, which seems to be general in almost all the districts of Bengal?

The Hon'ble MR. MACPHERSON replied:—

"The Lieutenant-Governor has seen the article to which the Hon'ble Member's question refers.

"The statements made therein are of a general nature on which it is not possible to base inquiry; nor is it stated whether complaints have been made to the local Magistrates.

"Many Kabuli traders travel through the districts, and it has before been reported that some of them are domineering and oppressive in their transactions. It is not possible to interfere with the movements of *bond-fide* traders unless they break the law. The standing orders contained in the Police Code impose upon Police Officers the duty of protecting the public from depredations of wandering gangs, whose object is plunder rather than legitimate trade."

THE BENGAL AND NORTH-WESTERN RAILWAY.

The Hon'ble MR. HORN, in continuation of the Answer given to the Question on this subject by the Hon'ble RAI TARINI PERSHAD, BAHADUR, at the Council Meeting of the 12th December, 1903, said:—

"A reference was made to the Consulting Engineer at Lucknow on the subject of the question that was asked by the Hon'ble Rai Tarini Pershad, Bahadur, at the Meeting of this Council, held on the 12th December, 1903, in connection with certain complaints which appeared in the *Bengalee* newspaper of the 21st October, 1903, regarding the management of the Bengal and North-Western Railway, and the following information has been obtained:—

- (1) There are ladies' waiting-rooms at seven of the principal stations of the Bengal and North-Western Railway for 1st and 2nd class passengers; and at Muzaffarpur, Samastipur and Benares City for *purdahnashen* ladies of all classes.
- (2) Increased and improved accommodation has been and is being provided for third and intermediate class passengers in new and improved vehicles.
- (3) The number of passenger trains has been increased.
- (4) The vacuum brake has been fitted, and is in use on 50 locomotives, and is being fitted to the passenger stock of the fast trains.
- (5) There has been no reduction of speed since the Sonapur accident; and the passenger train daily mileage has been increased and the mixed train mileage reduced."

The Council was then adjourned to Saturday, the 13th February, 1904, at 11 A.M.

CALCUTTA;
The 8th February, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, FEBRUARY 24, 1904.

PART IVA.

Proceedings of the Bengal Legislative Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Saturday, the 13th February, 1904.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. L. HARE, C.I.E.
The Hon'ble MR. B. L. GUPTA.
The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.
The Hon'ble MR. W. C. MACPHERSON, C.S.I.
The Hon'ble MR. D. B. HORN.
The Hon'ble MR. L. P. SHIRRES.
The Hon'ble MR. A. EARLE.
The Hon'ble MR. R. T. GREER, C.S.I.
The Hon'ble MR. T. K. GHOSE.
The Hon'ble MR. H. ELWORTHY.
The Hon'ble MR. A. A. APCAR.
The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.
The Hon'ble RAI TARINI PERSHAD, BAHADUR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.
The Hon'ble BABU SALIGRAM SINGH.

QUESTIONS AND ANSWERS.

RAILWAY FERRY BETWEEN PALEZA AND MAROOFGANJ.

The Hon'ble BABU SALIGRAM SINGH asked:—

(a) Is the Government aware that the Bengal North-Western Railway Company have received the sanction of the Government of India to establish a ferry between Paleza and Maroofganj for the accommodation of railway traffic only, with permission to call at several points for the like accommodation of railway traffic on the south bank of the Ganges between Patna and Deegha?

(b) Is the Government aware that permission to the said Railway Company to establish such a ferry was previously refused by the Government of India after prolonged inquiries had been made into the rights of the matter and the opinion of the Hon'ble the Advocate-General of Bengal was taken on the subject, and that finally, in February, 1903, the Company were asked by the Government of India to arrange terms with the Patna Municipality, if they desired to establish the ferry in question?

(c) Has this Government any information as to the circumstances which may have transpired since then to induce the Government of India to rescind their own previous order on the subject and to grant permission to the said Railway Company to establish a ferry between Maroofganj and Patna? If not, will this Government be pleased to inquire from the Government of India?

(d) Is the Government aware that the establishment of this ferry by the Bengal North-Western Railway Company, during the continuance of the contract which the Magistrate of Patna, acting on behalf of the Government under the Ferries Act, entered into in 1903 with a private contractor for three years up to May, 1906, for the Patna group of ferries, of which Paleza is the most westerly landing-place on the north bank of the river and Maroofganj the most easterly on the south bank of the river, constitutes a breach of contract?

(e) Is the Government aware that the establishment of this ferry has already led to a diversion of traffic, that the ferry-contractor has already complained to the Magistrate of Patna to the effect that it will finally interfere with his ability to pay the sum for which the ferries were settled with him, viz., Rs. 29,000 annually, and that it is extremely improbable that it will ever hereafter be possible to settle these ferries, while the rival ferry of the Bengal North-Western Railway Company continues to ply, even for a fraction of the sum at which they are at present settled?

(f) Is the Government aware that about one-seventh of the income from the Patna group of ferries goes to the Patna Municipality, and that the loss of income from this source will seriously affect the finances of the Municipality and its established scheme of sanitary and other works?

(g) Will the Government be pleased to state what steps they propose to take in the matter with a view to safeguard the financial interest of the Patna Municipality against loss of income caused by the establishment of the aforesaid ferry by the Bengal North-Western Railway Company?

The Hon'ble MR. SHIRRES replied:—

"A reference has been made to the Government of India on the subject dealt with in the question of the Hon'ble Member. This Government is not at present in a position to give any information regarding the Railway Ferry between the Paleza and Maroofganj Ghâts."

THE BENGAL PUBLIC PARKS BILL.

The Hon'ble MR. BUCKLAND moved that the Report of the Select Committee on the Bill for the regulation of Public Parks in Bengal be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. BUCKLAND also moved that the clauses of the Bill be considered in the form recommended by the Select Committee. He said :—

“The Report of the Committee, as Hon'ble Members will see, is a short one, and contains, I think, all that need be said on the amendments which the Select Committee have made.

“The first one of any importance is in clause 3, which was introduced on my own motion, because it had been brought to my notice that cases had occurred at the Botanical Gardens of disturbances and want of discipline and trouble with the public and the garden servants at the landing stage or pontoon, which we all doubtless know; and it seemed to be possible that in time to come the Local Government might require, for some reason or other, to include small portions of land in the areas of public parks which are not now contained in these parks. It seemed to me, therefore, that the proper time had now come for this opportunity to be taken for the Government to have legal power to make some slight alteration in the areas of gardens and parks, and in this particular case it is clear that the pontoon or landing stage at the Botanical Gardens should be included in that park.

“In section 4, clause (4), the list of particular purposes for which rules may be made has been amplified. I think it may now be claimed that those purposes have been dealt with exhaustively. I have thought over the matter, and nothing more has occurred to me as being necessary.

“We have inserted in sub-clause (5) the provision that all rules made under that section shall be published in the Calcutta Gazette, so that there shall be no idea of rules being made without the knowledge of the public.

In another clause the word ‘detained’ has been substituted for the word ‘arrested,’ so that there shall be no power of arresting or confining the body of an offender. All that is required is, that the person offending shall be detained until his case has been gone into. We have also provided that the minimum period for such detention should be reduced from 24 hours to 12 hours. As I have said before, the detention should be of very limited duration.

“We have also provided that the durwans and Superintendents of these parks shall be deemed to be public servants, so that they will thereby be vested with all the responsibilities attaching to public servants under the Indian Penal Code. The whole object of the Bill, as I explained before, is to take legal power for doing that which is now done by rules without legal power. One object is to keep the police out of these parks. It is necessary that the durwans and Superintendents, the people to whom we propose to give such authority as is required to keep order and discipline, should be vested with such powers which, for want of a better term, I may describe as *quasi*-police powers. I, therefore, commend this motion to you.”

The Hon'ble BABU BHUPENDRA NATH BASU said :—“As one of those who opposed in some measure the Bill when it was introduced, I shall offer a few observations on the Bill. Since the Bill was introduced in this Council I have been satisfied that the necessity exists for the control of these parks, for some powers being vested in the authorities concerned to prevent breaches of discipline and the commission of offences, and for that purpose some legislation of the nature introduced should be passed. In the Select Committee we have tried to minimise the effect of those sections which would imperil the liberty of the people. The power of arrest has been taken off and the time of detention has been reduced from 24 hours, as originally introduced in the Bill, to 12 hours. Moreover, an offender has been given the option, if he so desires, of being taken at once to a Magistrate and not to the thana. The alterations that have been made in Select Committee will, I hope, take away from the Bill its penal character and in its present shape make it acceptable to the public.”

The Motion was then put and agreed to.

The Hon'ble Mr. BUCKLAND also moved that the Bill as amended be passed. He said:—

"I do not think any further remarks are necessary from me on this motion."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Before the motion is put to the Council, may I be permitted to make one suggestion? As has been rightly pointed out, the effect of this Bill is to confer *quasi-police* powers on *park-darwans*, and it has been apprehended by people that although this may be necessary, it may in some cases lead to hardship. The suggestion I beg to submit is, that the Government should call for reports of all cases of prosecutions under the Act, say within a period of the first two years after the commencement of this Act. This will enable the Government to see whether prosecutions are instituted needlessly, and whether they are carried on in the interests of justice or otherwise. If that is done, the Government will be able to see how the Act works in practice."

The Motion was then put and agreed to.

THE BENGAL TRAMWAYS (AMENDMENT) BILL.

The Hon'ble *Mr. SHERRES moved that the Bill to amend the Bengal Tramways Act, 1883, be passed. He said:—

"As you are aware the Bill is of the very simplest possible character. It is simply to introduce two words into the existing Bengal Tramways Act."

The Motion was put and agreed to.

THE BENGAL SETTLED ESTATES BILL.

The Hon'ble Mr. BUCKLAND moved that the Report of the Select Committee on the Bill to facilitate the family settlement of estates in Bengal be taken into consideration. He said:—

"The task before us in Council with this Bill will not be so light or so easy as that just now performed in respect to the Parks Bill, but I hope that this Bill will not detain us really at any great length. I will, Sir, with your permission, at this stage make such remarks as I have to make in regard to the Bill.

"The Select Committee has altogether met nine times and has given, I think I may say, to this Bill the very fullest possible consideration. The papers will show us that the length of the Bill itself has been extended from 5½ to 12 pages, from 24 to 38 sections, and the Bill is now divided up into eight parts or chapters where formerly there were none. The Report of the Select Committee, which has been presented, extends to 58 paragraphs. I have particularly been anxious that nothing of any importance should be omitted from the Report of the Select Committee, so that the proceedings of the Committee might be well known to everybody and be in the hands of the Council before the Bill came before us in Meeting.

"In the Committee our principal object has been to develop the principles upon which the Bill is based and to provide for every detail as it presented itself to us in considering the clauses of the Bill, and to provide that, when legislating for the conferring of privileges and unusual rights on probably a very limited number of landholders, we should take care to provide that no injury was done to the rights of third persons who might be affected otherwise by such a measure.

"The Bill has necessarily been largely affected by principles of English law, with which the learned lawyers who were on the Select Committee—and to whom our acknowledgments are due, as also to the Secretary of the Council, for the great assistance they have rendered us in the consideration of the Bill—

are much more familiar than I am. I mention this fact as we had to follow, in settling the details, the principles of English law, and because there are in this Bill a number of terms, such as settlement, estate, tenant for life, and such like, which, if dealing with Indian law, would have very different meanings from those which such words must bear in such a Bill as that now before us.

“One main principle of the Bill is that the opportunity of settling their estates should be open to all landholders of whatever class, whatever race, whatever degree. The question very soon arose whether landholders who were affected by the Mitakshara law should have the privileges of this Bill, but we very soon came to the conclusion that the facilities with the privileges conferred by the Bill should be available to all classes, and that there was therefore no warrant for excluding persons under the Mitakshara law or Muhammadans or any other members of the community. Nor have we excluded, by the imposition of any financial limit, any of the poorer landholders, though I presume the Government of the day would not allow any landholders, except those in a distinctly substantial and wealthy position, to take advantage of such a measure.

“Another principle we have worked out and observed most carefully is that on no account should this Bill be regarded as an Incumbered Estates Bill. That is distinctly brought out in the Report of the Select Committee, which says:—‘The Bill, as observed in paragraph 3 *ante*, is not an Incumbered Estates Bill, and the amendments just mentioned are designed in order to prevent its being applied to any estate which is insolvent or heavily indebted, while they will also meet objections taken by the Bengal Chamber of Commerce and the Calcutta Trades Association, with which we are in unison, as to the insufficiency of the Bill, as introduced in Council, to protect the interests of creditors.’ We have, I should add, been guided throughout by the desire to protect the interests of third persons, whether secured or unsecured creditors, chiefly the secured creditors. But we do not propose to interfere with petty debts under, say, Rs. 500 in each case.

“Another principle which has been maintained is that stamp duty should be levied on the settlement of an estate to the extent of 25 *per cent.* on the annual income of the property to be settled, and that this stamp duty should be levied on all original settlements. Whenever a settlement is made for the first time, whether now directly the Bill is passed or in the future, the stamp duty on any original settlement is to be taken once for all. But there is provision for what I may call the renewal of these settlements, and, when any fresh settlement is made by renewal of the original settlement, there will only be a nominal stamp duty of something like Rs. 10. If the Members of Council will read attentively the Report of the Select Committee they will see that a fresh settlement means the renewal of the original settlement. But on the occasion of such a renewal (that is, by the renewal of the original settlement) it will be possible by a supplementary settlement to add to the original settlement, while on any supplementary settlement the stamp duty will have to be charged, as it would be in the case of an original settlement.

“Another principle which is perhaps not quite clearly brought out in the original Bill has been made more clear in the Bill now before us, as explained by the Report of the Select Committee. It is in regard to the meaning of the expression ‘three generations.’ The original intention of the Government was that the three generations to whom the settlement should apply should be the original settlor, his son, his grandson, and that the remainderman should be the fourth person. The Bill as originally drafted made the third person, the grandson of the original settlor, the remainderman. The Bill has now been altered to carry out the original intention, so that the settlement will remain for three generations, including the settlor himself, his son, and his grandson, the remainderman being the fourth person, that is (excluding the settlor) his son, grandson, and the remainderman. By the provisions of the Bill we have avoided that bugbear of English law, perpetuities. But by the system of renewal of settlement, provision has been made for continuity of settlement. It will always be open to a family to let the settlement expire if they so desire, if they find it is not satisfactory or does not answer their expectations.

Thus, while avoiding perpetuities, provision has been made for continuity of the settlement at distinct stages.

"These are, I think, the chief principles of the Bill which have been borne in mind and elaborated. We have in the elaboration of the Bill made provision for the application to be reduced to writing and to be published, and a declaration to be made by co-owners and co-sharers to the effect that they are willing to assent in the proposed settlement. We have provided, by way of giving greater publicity, that copies of all applications for settlement shall be sent to each creditor or co-owner or co-sharer, and we have provided that the notification in the Gazette shall set forth the application and details, and so on. At any rate every provision has been taken for giving publicity to what is material. We have also provided that, on the expiry of the settlement, if it is allowed to expire by the action or inaction of the family concerned, the rights of co-owners or co-sharers or their descendants shall be restored.

"We have also provided more elaborately than before for the maintenance of co-owners and co-sharers, if any, who have assented to the settlement of their sharers, and of all persons who at the time of the expiration of the settlement may be entitled to maintenance out of the estate, so that nobody can say that he or she was wronged by the settlor doing what he likes with his wealth, his superfluous property, which he has at his own disposal to settle as he likes.

"We have also made it quite clear, I think, by clause 19, [clause 20 of the Bill as passed], in view of the special stamp duty of 25 *per cent.* on settlements, that it is not intended to levy succession duties on property, debts or securities covered by a settlement. It has been therefore declared by clause 19, [clause 20 of the Bill as passed], that probate, letters of administration or a succession certificate need not be taken out in respect of such property, debts or securities, and we have added a sub-clause to declare that if any probate, any letters of administration or any succession certificate should purport to cover any such property, debts or securities, no Court-fee shall be levied in respect thereof.

"In clause 26 [clause 27 of the Bill as passed], we have provided that rents of a settled estate which were in arrear immediately before the death of a tenant for life shall belong to the next holder of the estate and not to the heirs, executors, administrators, or assigns of such tenant. This is a matter in which contention is very likely to arise, and it seems to us very proper that the Bill should provide for the occurrence of such arrears, and that these arrears arising from the estate should properly belong to the settled estate itself and should go to the proprietor or tenant for life for the time being, and that they should not be wafted away from the estate and placed at the disposal of the heirs of the deceased tenant for life.

"We have also provided in clause 27 [clause 28 of the Bill as passed], that the tenants for life should be debarred from alienating any part of a settled estate or the profits thereof for any period except of course in the cases provided for in clauses 28 and 29 of this Bill, [clauses 29 and 30 of the Bill as passed]; for if alienations were allowed the objects of the Bill would be defeated.

"Clauses 28 and 29 [clauses 29 and 30 of the Bill as passed], provide for those cases in which the Committee were of opinion that sales and leases by tenants for life might be effected, but should be required to be with the sanction of the Civil Court in one case and the Local Government in the other. We have also, in giving the Civil Court power to sanction the sale of the settlement affected, provided that the proceeds of the sale are to come back to the *corpus* of the settlement. We have also made it more clear that the tenant for life should not benefit in the event of landed property being brought to sale for arrears of Government Land Revenue. It would have been very undesirable to allow a tenant for life to have the power of letting his estate, in default of payment of Government revenue, be put up for sale, so that he, the tenant for life, might pocket

the surplus proceeds of the sale, and the body of the settlement be thereby seriously injured. We have, therefore, made a special provision to prevent *benami* purchases on behalf of the tenant for life, so that, if the property does come for sale for arrears of Government revenue, the tenant for life shall not benefit by a *benami* purchase being affected in his name.

"The last clause is also new. It 'saves the right of secured creditors whose incumbrances have not been set forth by an applicant for settlement, or who may not have assented to conditions inserted in an instrument of settlement for the continuance or discharge of their incumbrances.' Of course it is intended that all the incumbrances shall be set forth, and that nothing shall be done without the consent of the creditors for the continuance or discharge of their incumbrances, but supposing that any debts or incumbrances should happen to be overlooked, this provision of law to the Bill will save any rights of secured creditors.

"I think I have mentioned quite at sufficient length the main changes that have been introduced by the Select Committee in their Report, which I now commend to the Council. A genuine effort has been made, I think, to meet every possible case that may occur. No doubt it is legislation of an unusual character, but the policy of it has been long ago settled and has been accepted by this Council. Our object has been, as I say, to provide for every contingency that suggests itself, and I think those who have studied the Bill will see that the Report of the Select Committee fully explains all the changes we have made in this direction."

The Hon'ble Mr. WOODROFFE said:—"This Bill has been made the subject of some hostile criticism. It has been said in the first place that the proper procedure was to bring in a private Bill such as was passed for Sir Jamsetjee Jeejeebhoy's estate; secondly, it was said that it offends against Hindu law in that it legalises the rights of unborn persons and members of joint Mitakshara families; thirdly, that it offends against the law of perpetuity, that is, is retrograde in its character and that it withdraws property from the domain of commerce.

"I had the honour of being a Member of the second Select Committee to which this Bill was referred. I found that the Bill had been introduced with due authority into the Council, and that the principles of the Bill had been accepted when it was referred to the consideration of the first Select Committee that was appointed to consider it. Speaking for myself, perhaps I should have been in favour of a separate Bill for certain specified persons being introduced; but finding that the question had passed, so far as the Select Committee were concerned, beyond the range of discussion, we proceeded to consider the Bill upon the lines upon which it was framed and submitted to Council.

"It is true that it does legalize, in cases which come under it, provisions respecting rights of unborn persons, and it is also true that, to a certain extent, it withdraws property from the ordinary domain of commerce, but your Select Committee, bearing in mind the fact that for motives of policy it was thought fit that there should be such a Bill introduced, considered that there was no reasonable objection to the conferring of rights upon unborn persons, and other persons whom it might be desirable to include in and by the settlements therein provided for.

"As regards the question of withdrawing property from the ordinary domains of commerce, the Council will observe that by the provisions of this Bill there is power given to the settlor or tenant for life to grant putnies and other permanent tenures as well as leases for long terms which are alienable and can without restraint be dealt with by the grantees of such tenures or leases and their assignees.

"There is no doubt that the Bill is somewhat complicated by the fact that the members of a Mitakshara family may be brought within the scope of this Bill, but that principle also, I found, had been adopted, and although the question was raised in Select Committee, I did not think fit to press the objection at that score.

"As the Hon'ble Member in charge of the Bill has justly observed, the labours of the Select Committee were devoted mainly to hedging round applications for settlement with such restrictions, and making them subject to such conditions as would be least likely to cause injury to third persons. This has been the principle which animated the Committee in the changes and alterations made. I think the Committee has succeeded in these respects, and they have, I may add, specially taken into consideration the representation made by the Chamber of Commerce, the Trades Association, and other parties whose objections were laid before us."

The Hon'ble BABU SALIGRAM SINGH said :—"The numerous additions made in the Bill by the Select Committee required that this matter should be considered fully by the public before it is passed into law. Specially the persons who are concerned in the Bill ought to know what changes have been made by the Select Committee. Therefore I ask the Council to consider whether or not more time should be given for the consideration of this measure before it is finally passed into law. The Bill was published in the Calcutta Gazette on the 3rd February. It was brought into Council on the 4th February, and it has been admitted that there were considerable alterations in the Bill made by the Select Committee. Therefore, I would ask your Honour to allow it to stand over for further consideration, and that, if possible, the amended Bill should be circulated to the different Associations. If this is not possible, I hope that, at any rate, the Council will agree to the consideration of the Bill being adjourned for a short time."

The Hon'ble MR. BUCKLAND said :—"It seems to me that the further postponement of this matter is entirely uncalled for and quite unnecessary. As I explained just now, the object of the Select Committee has been to develop the principles of the Bill. One point was whether this Bill should be applicable to all classes of the community, and the development has been in that direction, viz., to make it available to all classes of the community and to provide in every possible way for estates being properly preserved and properly regarded, and the Bill has received every consideration in detail."

"The effect of the postponement of this Bill would be to require its republication. I do not know how long the postponement would be asked for. We do not know what would happen in such an event. We do not know what new hares might be started. We do not know whether, when the Bill came up again at the last moment, we might not have further pleas for the Bill being postponed."

"There is no necessity for any single individual taking advantage of this Bill unless he is so inclined. There is no obligation for any person, if he does not like the terms of the Bill, to apply for a settlement under it."

"I entirely object to the plea for postponement being brought forward, I would not say at the eleventh hour, but at the very last moment. The Hon'ble Member will allow that this Bill was published ten days ago, according to the recognised procedure. The Bill has been before the Council for six months. Ten days ago it was put into the Gazette, and the Hon'ble Member and his constituents might well have sent in their amendments within the first few days, certainly in time. But at the very last moment he comes forward with his plea for postponing it. It makes legislation almost impossible in this Council. Here we are, having all worked ourselves up to the occasion. We all know what there is in the Bill. The Members of the Select Committee have the whole of the subject at their fingers' tips, and surely the Members of the Select Committee may be trusted to safeguard the rights of the public, as well as the Hon'ble Member and his constituents? Now what does this postponement entail? It entails the Bill being put off for two months or, probably, three months. We may disperse and anything may happen to cause further delay. Here is this Bill absolutely ready to be passed, and we are now asked to postpone it. This is not fair to the Council; it is not fair to the Select Committee, and it is not fair to the Member in charge."

The Hon'ble THE PRESIDENT said:—"I do not know whether the Hon'ble Member desires to press his proposal for adjournment. The Bill has been before the public since July last year."

The Hon'ble BABU SALIGRAM SINHA said:—"On hearing what the Hon'ble Member in charge of the Bill has said, I desire to withdraw my motion."

The Motion was then put and agreed to.

The Hon'ble MR. BUCKLAND also moved that the clauses of the Bill be considered in the form recommended by the Select Committee. He said:—

"It is hardly necessary for me to take up any further time of the Council by adding any remarks on this motion."

The Motion was put and agreed to.

Clause 7.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in clause 7 (a), after the word "application" the following be inserted, namely:—

[except the particulars inserted therein in pursuance of clause (b) of section 4.]

He said:—"Section 4 provides that every application for settlement must contain certain particulars, namely:—

- (a) a description of the estate, sufficient for its identification;
- (b) a statement of the income yielded annually by the property comprised in the estate, and the revenue, rates and taxes due to the Government, or any local authority annually in respect of such property; and
- (c) a list giving a full and complete enumeration and description of all incumbrances held by secured and unsecured creditors, respectively, and enforceable against the applicant or the estate, with the name and address of each such creditor, and a correct statement of the amount due to each such creditor.

"Section 5 goes on to provide:—

If any estate in respect of which an application is made under section 3 belongs to—

- (a) a joint Hindu family, or
- (b) co-sharers,

the application must be accompanied by—

- (i) a sworn declaration by the applicant,—
 - in case (a) that he is the *karta* or managing member of the family, or
 - in case (b), that he is a principal share holder in the estate and has, by custom or with the consent of his co-sharers, as the case may be, the sole right of management over the estate; and
- (ii) a sworn declaration in case (a), by the other co-owners or, in case (b), by the other co-sharers, that they are willing to consent to the estate being settled under this Act.

"My suggestion is that the details contained in section 4, sub-section (2), clause (b), relating to the income yielded annually by the property comprised in the estate and revenue and taxes should not be published. Apparently this information is not likely to be useful to anybody, and, so far as creditors are concerned, copies of the application and declaration which accompany it are to be sent to each creditor named in the schedule. In my opinion the publication of these details might sometimes be embarrassing to the settlor, and I would therefore suggest that the words which I have proposed should be added, might be put into the section."

The Hon'ble MR. BUCKLAND said:—"I have no objection to the amendment."

The Hon'ble MR. WOODROFFE said:—"The proposed amendment should be accepted."

The Motion was then put and agreed to.

Clause 5.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that in clause 5 (f), after sub-clause (ii), the following be inserted, namely:—

and (iii) a draft of the proposed instrument of settlement.

He said:—"I must confess that the amendment I now move and certain others that I will ask liberty to move later are not amongst the suggestions I made when the Select Committee, of which I had the honour of being a Member, were considering the Bill. These suggestions did not strike me then, but only afterwards. I also must say that the Select Committee took considerable pains and devoted much time in considering this important Bill, and that I am a little too late now in putting forward my amendments, but they are new and appear to me to be necessary. Having regard to the fact that sworn declarations by co-sharers and co-owners in regard to matters affecting their respective interests have to be made by them, it is natural to expect that they would hesitate to signify consent and to make declarations without knowing the terms and conditions under which a settlement is in contemplation. If copies of the draft instrument of settlement accompany the application, they will be in a position to know and to decide whether they have any objection to the settlement as proposed or not. If a copy of the draft settlement as proposed is to be sent with their declarations to each co-sharer or co-owner, then it is necessary that a draft settlement should also be sent to the Local Government when an application is made for a settlement under this Act."

The Hon'ble Mr. WOODROFFE said:—"This amendment is not unworthy of consideration. As I understand the Hon'ble Member, he desires that a draft of the proposed instrument of settlement should accompany the application in order that the persons concerned including the creditors as well as the co-sharers and co-owners, should know the exact position of affairs. I would therefore support the amendment."

The Hon'ble Mr. BUCKLAND said:—"I have no objection to offer to the amendment. The Hon'ble Member would have been more regular in procedure if he had given us longer notice. It was also open to him in the Select Committee, of which he was a Member, to have brought this matter forward, but he has told us that it did not occur to him at the time, and there is nothing more to be said about it. We want to make the Bill as complete as possible, and for this reason I will not stand in the way at all."

The Motion was then put and agreed to.

Clause 7.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that in line 3 of the second paragraph of clause 7, after the words "in the application and," the following be inserted, namely:—

shall also send a copy of the said application and declarations and a copy of the draft of the proposed instrument of settlement.

He said:—"My former amendment having been carried, this one follows as a matter of course. I would not be justified in taking up the time of the Council with any lengthy remarks in support of it. The co-owner or co-sharer ought to be furnished with a copy of the draft settlement, as I have already said. It is for this reason that I proposed the last amendment moved by me, and that has been carried. I consider it now necessary to move this amendment."

The Hon'ble Mr. WOODROFFE by way of amendment proposed that in line 2 of the second paragraph of clause 7, after the words "which accompanied it" the following be inserted, namely:—

as also a copy of the draft of the proposed instrument of settlement.

The Hon'ble THE PRESIDENT said:—"Would it not be better if it was put in this way:—

The Local Government shall send a copy of the application, and of the declarations which accompanied it, and also a copy of the draft of the proposed instrument of settlement to each creditor who is named in the application, and to each person who has made a declaration in pursuance of clause (ii) of section 5.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"I gladly accept the alteration suggested by the Hon'ble the Advocate-General."

The Hon'ble MR. BUCKLAND said:—"I have no objection to offer to this amendment."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I think the form suggested by the Hon'ble the Advocate-General is better, as being more comprehensive, than the amendment proposed by the Hon'ble Rai Tarini Pershad, Bahadur. There is no reason why a copy of the draft of the proposed instrument of settlement should not be sent as well to the creditors. I am entirely in favour of the form of the amendment as suggested by the Advocate-General."

The Hon'ble MR. BUCKLAND said:—"Do I understand the Hon'ble the Advocate-General to mean that these words should come in after the words 'accompanied it'?"

The Hon'ble MR. WOODROFFE:—"Yes."

The Hon'ble THE PRESIDENT said:—"The proposal is that a copy of the draft instrument of settlement should be sent not only to those who are interested in the estate, but to every creditor of the settlor."

The Motion was then put in the amended form and carried.

Clause 8.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that at the end of clause 8 (2) the following be inserted, namely:—

and the Civil Court shall, in dealing with any such reference, follow the procedure prescribed in the Code of Civil Procedure for the trial of suits, so far as the same may be applicable.

He said:—"The Civil Court, in determining the matter in dispute referred to it, shall follow the procedure laid down in the Code of Civil Procedure, so far as the same may be applicable. The reason for the amendment is obvious."

The Hon'ble MR. BUCKLAND said:—"I have no objection to this amendment."

The Motion was put and agreed to.

Clause 10.

The Hon'ble RAI TARINI PERSHAD, Bahadur, also moved that after clause 10 (3) the following be inserted, namely:—

(4) Any settlement made under the foregoing provisions of this Act may provide that any tenant for life may, with the previous sanction of the Local Government, by written instrument, surrender his interest under the settlement in favour of the next tenant for life.

He said:—"I think provision like this is necessary; cases of voluntary surrenders of property by the proprietors for the time being occur in Hindu as well as in Muhammadan families in this country. There are great many instances of cases in which surrenders of large properties have been made in favour of near relations when they determine upon leaving the cares of the world and take to pilgrimage and settle themselves in holy places for the rest of their lives, surrendering their properties to their dearest and nearest. The provision suggested will meet all such cases."

The Hon'ble MR. WOODROFFE said:—"I do not think there is any objection to giving this power of surrender. The circumstances under which it may be exercised are of a somewhat exceptional character, still if a tenant for life does desire to surrender in favour of the next tenant for life, I for one see no objection to the introduction of a clause to that effect."

The Hon'ble MR. BUCKLAND said:—"I see no objection to this amendment, but I should like to have an explanation from the Hon'ble Member who moved it. I suppose it is not intended by him that the settlement should in any way be extended by the operation of this provision."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"No, I do not wish to extend it in any way."

The Hon'ble MR. BUCKLAND continued:—"If a settlement is made by A for the three lives of A, B and C, and, if A resigns the settlement in favour of B, it does not mean thereby that a fourth person should be included. I would ask the advice of the Hon'ble the Advocate-General whether, by accepting this amendment, instead of the settlor A who surrenders any other person could be introduced into the settlement beyond those who are included in the settlement; and that the surrender of the settlor's interest does not mean that another person is brought into the settlement."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, in reply said:—"I do not wish to introduce any one into it, whether it be the third, fourth or the fifth person. I simply asked that a settlor who wishes to leave the cares of the world and pass the rest of his life in pilgrimage, in the case of a Muhammadan to Mecca or Medina, and in the case of a Hindu to Benares and other places, may have power to give his interest in his property to his nearest and dearest."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"It would be safer if some such words as these were added to the clause proposed by my hon'ble friend to my left:—

Provided nothing in the section shall affect the provision of section 10, sub-section 2, clause (i).

"Of course the object we have in view is, that it may not be taken as continuous for the purpose of extending the settlement perpetually. Section 10, sub-section (2), provides that after the life of the third tenant for life, the eldest or the only son shall hold the estate absolutely. If we do not insert some such provision as the one I have mentioned, it may enable the settlement to go on perpetually."

The Hon'ble THE PRESIDENT said:—"Would not that be met by the definition given in section 2? If you look at what the Hon'ble Member proposes in the item of business No. 11*, taken in connection with this definition, that meets the whole case."

The Hon'ble MR. WOODROFFE said:—"The definition of 'second tenant for life' refers only to the person who, under the terms of the settlement, has to take the settled estates on the death of the first tenant for life. It will have to be amended so as to include the case of one who takes on surrender. So amended, it will safeguard the question which was raised by the Hon'ble Member in charge of the Bill."

The Hon'ble THE PRESIDENT said:—"Then the Hon'ble Rai Tarini Pershad, Bahadur, proposes in the next item of business that an instrument of surrender shall not take effect unless it has been approved by the Local Government before such execution, and the effect of such approval having been given, you certify that instrument by one of the Secretaries of the Local Government."

The original Motion was then put and agreed to.

* i.e. the amendment of clause 2 proposed by the Hon'ble RAI TARINI PERSHAD, BAHADUR.

Clause 2.

e Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved—

(1) that at the end of sub-clause (e) of clause 2 the following be added, namely:—

or on the surrender by the first tenant for life of his interest under the settlement;

(2) that at the end of sub-clause (f) of clause 2 the following be added, namely:—

or on the surrender by the second tenant for life of his interest under the settlement.

said:—"The reason of this amendment I have already given."

e Hon'ble MR. WOODROFFE, by way of amendment, proposed—

(1) that at the end of sub-clause (e) of clause 2 the following be added, namely:—

or who on the surrender by the first tenant for life takes his interest under the settlement;

(2) that at the end of sub-clause (f) of clause 2 the following be added, namely:—

or who on the surrender by the second tenant for life takes his interest under the settlement.

said:—"I could not catch whether the hon'ble mover of the amendments my amendment."

e Hon'ble THE PRESIDENT said:—"The Hon'ble Member read it as in error."

e Motion was then put in the amended form and agreed to.

New clause.

e Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that after clause following be inserted, namely:—

1. (1) No instrument of surrender referred to in sub-section (4) of section 10 shall take effect unless it—
Approval, stamping and registration of instruments of surrender.

(a) is of a non-testamentary character;

(b) is attested by two or more witnesses;

(c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government;

(d) is stamped in accordance with the provisions of the Indian Stamp Act, of 1899, and

(e) is registered within three months after the said approval has been certified as aforesaid.

Subject to the foregoing provisions of this section, every such instrument shall take effect from the date of its execution.

said:—"The matter of surrender vitally affects the interest of all. It is therefore desirable that before it is made, the desired effect formalities suggested should be gone through."

e Hon'ble MR. MACPHERSON said:—"I would ask the Hon'ble the e-General what would be the effect of this clause in case of the refusal of the Local Government to approve a surrender? Supposing that a tenant for settled estate should surrender, and the Local Government did not approve of the surrender, what would be the position of the administration of the estate?"

The Hon'ble MR. WOODROFFE said:—"It seems to me that if the Local Government does not approve of the surrender, it takes no effect at all; it is ineffectual. I understand that the clause proposed to be added is that instrument shall not take effect unless it has been approved by the Local Government. If therefore the Local Government does not approve of it, the instrument of surrender is ineffectual."

The Hon'ble MR. MACPHERSON said:—"What would happen if it was pronounced to be ineffectual, and the tenant for life notwithstanding should insist upon the surrender?"

The Hon'ble MR. GUPTA said:—"I think he must take the approval of the Local Government before he executes the surrender, and if the approval is refused, then everything must remain as it was before. In this connection I beg to say that there is no objection to this amendment, but I may suggest that the new section may be numbered 19 and the numbers of the following sections altered accordingly."

The Hon'ble MR. WOODROFFE said:—"The question raised is met by the amendment of clause 10 which has been already passed. The surrender must be made with the previous sanction of the Local Government. There cannot be a surrender without previous sanction. It seems to me that it follows from the power already taken that it is sufficiently safeguarded because, among other things, it must be approved by the Local Government before any one can effect such surrender and the fact of such previous sanction must be certified by the Secretary of the Local Government on the instrument."

The Motion was then put and agreed to.

Clause 23.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that at the end of clause 23 [clause 24 of the Bill as passed], the following be added, namely:—

(5) The provisions of section 21 shall apply to every such instrument.

He said:—"The notification of the fact of revocation of the instrument of settlement appears to be necessary in the interest of all concerned. Section 21 [clause 22 of the Bill as passed], provides for notification of the purport of the instrument of settlement. I think it necessary that some provision for notification should be made in cases of revocation also, so that all persons who shall have to deal with the settled estate may be in a position to know the fact of such revocation. For instance, clause 25 [clause 26 of the Bill as passed], provides that when any instrument of settlement is revoked under section 23 [clause 24 of the Bill as passed], the rights of all persons having incumbrances upon the estate shall revive. But the Bill does not provide that any information should be given to such persons. A general notification in the Calcutta Gazette will meet the object, and in that view of the matter a provision for notification becomes a matter of necessity. I may mention that by clause 24 [clause 25 of the Bill as passed], a notification of cancellation and amendment has been provided for, but it is only in regard to cases of revocation that such notification is wanting."

The Hon'ble MR. WOODROFFE said:—"I venture to think that this amendment is not framed in a very convenient form, and that the object the hon'ble mover has in view would hardly be served by maintaining section 21 [clause 22 of the Bill as passed], as it stands. I therefore propose that in clause 21 [clause 22 of the Bill as passed], sub-clause (1), after the word 'settlement' the words 'or revocation of settlement' be inserted."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, in reply said:—"I shall gladly accept the further amendment proposed by the Hon'ble the Advocate-General. It will be better if this be included in section 21 [clause 22 of the Bill as passed]."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I have been anticipated by the Hon'ble the Advocate-General, except on one point. I was

going to suggest that the words 'or surrender of settlement' be also added to clause 21 [clause 22 of the Bill as passed], sub-clause (1)."

The Hon'ble BABU SALIGRAM SINGH said:—"I beg to point out that a revocation is provided for under section 23 [clause 24 of the Bill as passed], which comes after section 21 [clause 22 of the Bill as passed], in which there is no mention of any revocation."

The Hon'ble MR. WOODROFFE said:—"I do not think that this matters. The Act will have to be read as a whole. There can be no objection to making it perfectly clear by adding the words 'or revocation or surrender.' Then the whole section, incorporating the further amendment proposed by the Hon'ble Dr. Asutosh Mukhopadhyaya, would run as follows:—

*21 (1). When any instrument of settlement or surrender of settlement or revocation of settlement is registered, etc.

The Motion was then put in the amended form and agreed to.

Re-numbering of clauses.

The Hon'ble MR. BUCKLAND moved that the Secretary be directed to re-number the clauses of the Bill in consecutive order, and to make corresponding alterations in all cross-references thereto. He said:—

"As your Honour is aware, we have just inserted a new clause 18A, and some little alterations of this sort are necessary."

The Motion was put and agreed to.

Passing of Bill.

The Hon'ble MR. BUCKLAND then moved that the Bill as amended be passed. He said:—

"I do not think any speech is required from me on this occasion. We have done our best to carry out the policy of the Government and to meet the wishes of the landholders of Bengal. I certainly hope that a certain number of them will come forward and take advantage of the Act, when it has received the sanction of the Governor General in Council.

"I beg once more to tender my sincere acknowledgments to the Hon'ble the Advocate-General, to the Hon'ble Dr. Asutosh Mukhopadhyaya, to the Secretary of the Council, and to the other gentlemen who, in the Select Committee, have given us all possible assistance in our labours, and to the Council for having agreed to the clauses of the Bill."

The Hon'ble BABU BHUPENDRA NATH BASU said:—"I do not think that I ought to give a silent vote on this matter. The Bill has been generally received with approbation, but it has also met with severe and adverse criticism in some quarters. Men with whom I have been associated in public life and for whose opinions I have the highest respect have found fault both with the principle and the policy embodied in the Bill. They have challenged the principle laid down in the Bill as contravening well-known and well-established principles of Hindu and Muhammadan Law. They have challenged the policy creating perpetuities as retrograde and reactionary.

"That the Bill contravenes the law as now interpreted and understood may be fully conceded. Hindu law as at present administered, and I believe Muhammadan law also, are very far from what these laws were meant to be by the ancient Lawgivers, and we are often in a state of bewilderment between the text writers and the law as at present understood. Both Hindu and Muhammadan Lawyers complain that the interpretation of their respective laws by the Courts of India and the Court of Appeal in England have taken them into channels never contemplated by their ancient Lawgivers. I do not refer to those matters by way of justification of the principle of the Bill, but simply by way of illustration to show that even the unchangeable East has had to change with the changing times.

* Clause 22 of the Bill as passed.

"The question is, whether the change sought to be introduced by the Bill is one that commends itself to our judgment and approbation. If it were intended to apply to the general population, my answer would be an emphatic No. It would no doubt be much simpler and more useful if we were given the power of making gifts to persons unborn on the same lines as are laid down in section 101 of the Indian Succession Act. We find every day the difficulty of making suitable provision where a young man of property is going to marry and settle down in life; how difficult it is to provide safeguards for the protection of his property for the benefit of himself and his family. He is exposed to all the temptations which a western civilization has introduced, without the safeguards which protect the youth of the West. But because the Government has not gone as far as we should wish it to go, that is no ground why we should oppose or reject this small measure if it brings relief even to a few families.

"I am aware that jurists and political economists and sociologists have condemned the creation of perpetuities which aim at the formation of a class who neither toil nor spin and who are *kept up* for ostentation and display. I do not propose at this stage to discuss or controvert the propositions that have been advanced against perpetuities. To us in India the uselessness of mere display and show is no new doctrine: it is the doctrine alike of the Vedantists and the Buddhists. But it would be idle to say that great houses serve no other purpose than that of mere show. They stand out, bold landmarks, amidst the shifting sands of time. They link the past with the present and hand down the present to the future. They serve as rallying grounds for all that conserves the social fabric and all that elevates life above the commonplace. Even under the disintegrating influence of our present laws some old houses have withstood the inroads of time, and traditions of the past have clung round them, keeping green memories which, though they are the dreams of to-day, may be realities of the morrow.

"The law, as it now prevails, distributing the property among all the sons, renders it impossible for any family to continue in a position of influence for any length of time. The sons, relying upon all of them getting a share in the patrimony, are apt to let their natural faculties go to rust. They lack the incentive of want and the stimulus of struggle for existence. The result is gradual impoverishment, general deterioration and consequent misery. What is the career open to a young man of wealth in this country? He has not the advantages of an English youth whose horizon is as wide as the bounding circle of the earth, to whom is accessible a career in the Army, the Navy, the Houses of Parliament, the diplomatic service or the Colonies and dependencies of England. The scions of our aristocracy can have no career in the profession of Law or Medicine whose early stages are repellant even to humbler individuals. They cannot enter the public services in competition with men whose memory and intellect are sharpened by hunger and want, and many a life of brilliant promise unable to find an outlet loses itself in the quick-sands of dissipation and extravagance.

"If the Bill is passed into law, the younger sons of families who may come under its purview will know that they will have no portion in the fortune of their father; that they must make the best use of the opportunities to equip themselves for the battle of life, opportunities which are denied to the poor; and they will constitute a middle class who will form the real backbone of the country; great houses may rise and continue in undiminished influence, potent for much good to their country.

"In the earnest anticipation that the Bill will fulfil its promise, that it will serve the end which its framers have in view, that it will perpetuate ancient houses, that it will create a substantial middle class, I vote for it with a safe and clear conscience."

The Motion was put and agreed to.

The Council was then adjourned to a day to be notified hereafter.

CALCUTTA ;
The 19th February, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council.



The Calcutta Gazette.

WEDNESDAY, MARCH 23, 1904.

PART IVA.

Proceedings of the Bengal Legislative Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Saturday, the 12th March, 1904.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. D. B. HORN.

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. T. K. GHOSE.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BRUPENDRA NATH BASU, M.A., B.L.

The Hon'ble BABU SALIGRAM SINGH.

QUESTIONS AND ANSWERS.

RECORD-ROOM STAFF IN DISTRICT COURTS.

The Hon'ble BABU SALIGRAM SINGH, in the absence of the Hon'ble RAI TAHINI PERSHAD, BAHADUR, said:—

I beg to draw the attention of Government to the following:—

That, according to the rule now in force (*vide* Government Memorandum No. 1280J., dated the 14th March, 1902, addressed to District Judges under the Lieutenant-Governor of Bengal, on the Report of the Commission on the ministerial establishments of the Civil Courts), the ministerial officers for the record-room of the District Courts are:—

one record keeper; three muharrirs for each record-room receiving 15,000 records a year; and, for record-rooms receiving more than 15,000 records a year, one extra muharrir for every 10,000 records received in a year.

That the Commission expressed an opinion substantially to the effect that there should be one muharrir for every 5,000 records in each district. The duties now falling upon the ministerial staff in the record-rooms are too numerous and heavy, and the officers now working are very much overworked.

That, owing to the very heavy work falling upon the ministerial officers of the record-rooms as well as in other departments in several District and Subordinate Courts, such as those of Bhagalpur, Patna, Burdwan, Muzaffarpur, Mymensingh, &c., most of these officers are obliged to stay in office till late hours, and also to attend office and work there even on Sundays and other close holidays; and, although extra hands are sometimes provided, such temporary provision does not sufficiently answer the purpose.

In view of the hardship pointed out, will the Government be pleased to make an inquiry in this connection from the District Officers, and consult the High Court, and kindly consider the advisability of removing this grievance by making necessary additions to the staff?

The Hon'ble MR. MACPHERSON replied:—

"This matter is one which ought in the first instance to be represented to the Judge of any district in which the record-room staff is too small. It would be most inexpedient for the Government to make a general inquiry of this nature without having authentic and definite information of a general necessity for increase of the staff. The Lieutenant-Governor must look to the District Judge to inform him of any need for additional establishment in any particular district."

APPRENTICES IN MUFASSIL CIVIL COURTS AND OFFICES.

The Hon'ble BABU SALIGRAM SINGH, in the absence of the Hon'ble RAI TAHINI PERSHAD, BAHADUR, said:—

I beg to draw the attention of Government to the following:—

According to the practice now in force, the apprentices in the District Courts (Civil, Criminal and Revenue) get nothing in the shape of remuneration for their services, extending over several years, before they are employed as ministerial officers or scription-writers. Many persons come to be admitted as apprentices from distant parts of the district, and in very many instances, though qualified for apprenticeships, they are unable to seek admission for want of means of livelihood in places where they could be admitted as such.

Will the Government be pleased to consider the desirability of making such provisions as to it may seem fit to remove the difficulties pointed out above?

The Hon'ble MR. SHIRRES replied :—

"The question of granting some allowance or remuneration to apprentices in the Civil, Criminal and Revenue Courts and offices in the mufassil has already engaged the attention of the Lieutenant-Governor and is under consideration."

COPYISTS AND SECTION-WRITERS IN COURTS.

The Hon'ble BABU SALIGRAM SINGH, in the absence of the Hon'ble RAJ TARINI PERSHAD, BAHADUR, said :—

I beg to draw the attention of Government to the following :—

That copyists or section-writers are employed in Civil and Criminal Courts, and are paid from out of the income derived from the Copying Department in a certain proportion, and that to all intents and purposes they are much in the same position as paid ministerial officers in other departments. There are numerous instances of such copyists or section-writers leaving office after a service of 30 years and upwards, without getting anything in the shape of a pension or a gratuity for the support and maintenance of themselves and the families depending upon them. There is no provision in the Civil Service Regulations for such officers after their retirement.

Will the Government be pleased to consider the desirability of making some provision for them on their retirement from the service?

The Hon'ble MR. SHIRRES replied :—

"The Lieutenant-Governor hopes to be able to effect some improvement in the position of the officers referred to by the Hon'ble Member, and the matter forms the subject of a correspondence with the Government of India. No further information can be given at present on the subject."

THE CALCUTTA IMPROVEMENT SCHEME.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(a) Will the Government be pleased to state if it is a fact, as stated in the *Englishman* of the 15th February last, that a private Conference is sitting to consider the subject of the improvement of Calcutta?

(b) Is it a fact that there are no representatives of the rate-payers in this Conference?

(c) Is it a fact, as stated in the *Hindu Patriot* of the 17th February, that it was proposed at this Conference to levy a death-duty of 5 per cent. on house property in Calcutta?

The Hon'ble MR. SHIRRES replied :—

"Correspondence which showed some tendency to become protracted has been in progress between the Government of India and the Local Government regarding the Calcutta Improvement Scheme.

"To avoid unnecessary delay, and to have the best available assistance in framing proposals for submission to the Government of India, the Lieutenant-Governor invited certain gentlemen to discuss the matter with him. The Conference consisted of two Bengal Officers serving in the Government of India (Mr. H. H. Risley, C.I.E., and Mr. E. N. Baker, C.S.I.), the Financial Secretary to the Bengal Government, the Commissioner of Police, an officer of the Public Works Department, the Chairman of the Corporation, and three non-official Members of the Corporation, one of whom was at that time also President of the Chamber of Commerce, namely, the Hon'ble Mr. E. Cable, the Hon'ble Dr. Asutosh Mukhopadhyaya and Mr. Nalin Behary Sircar, C.I.E. Those non-official gentlemen were selected by the Lieutenant-Governor as representing

the interests and views of the different classes of rate-payers. The Lieutenant-Governor presided and Mr. C. G. H. Allen acted as Secretary.

"The proceedings were entirely confidential, and were only intended to assist the Lieutenant-Governor in placing his proposals before the Government of India. The matter is now being placed before that Government; and no information can for the present be given."

RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS.

The Hon'ble MR. MACPHERSON presented the Report of the Select Committee on the suggested amendments in the Rules for the Conduct of the Legislative Business of the Bengal Council.

The Hon'ble MR. MACPHERSON moved that the Report of the Select Committee be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. MACPHERSON also moved that the amendments be considered in the form recommended by the Select Committee.

The motion was put and agreed to.

The Hon'ble MR. MACPHERSON also moved that the Amendments, as revised by the Select Committee, be passed.

The motion was put and agreed to.

THE BENGAL EXCISE BILL.

The Hon'ble MR. BUCKLAND presented the Report of the Select Committee on the Bengal Excise Bill, 1903.

The Hon'ble MR. WOODROFFE moved that the Bill be re-committed to the Select Committee, with instructions to re-consider and so amend the same as to secure by express and direct legislative enactment—

- (a) that the principles of the policy of the Government of India, enunciated in paragraph 103, principles (3) and (4),* of their Despatch to the Secretary of State for India, No. 29, dated 4th February, 1890, be given legislative effect, with due regard to the present system of local and municipal institutions prevailing in Bengal;
- (b) that intoxicating liquors and drugs may not be sold, at any house licensed for the sale of such liquors and drugs, to women or to children under the age of 14; and
- (c) that reasonably adequate provision be made therein so as to prevent, as far as possible, the spread of drunkenness in Bengal.

He said:—"On a careful consideration of the Majority Report of the Select Committee upon the Excise Bill and of the Note of Dissent attached thereto by two of the Members of that Committee, and in consideration of the various memorials and papers which were placed before the Select Committee, which have been called for, for the purpose of ascertaining public opinion on the matters therein concerned, I felt that there was laid upon me the necessity of moving the motion which stands over my name. The Select Committee in paragraphs 3 and 4 of the Majority Report state as follows:—

3. *Local option*.—In several of the criticisms which have been received it is urged that the principle of "local option" should be adopted in the Bill, that is to say, that it should be provided that licenses for the sale of intoxicating liquor or drugs in any locality

* "(3) that the number of places at which liquor or drugs be purchased should be strictly limited with regard to the circumstances of each locality; and

(4) that efforts should be made to ascertain the existence of local public sentiment, and that a reasonable amount of deference should be paid to such opinion when ascertained."

shall not be granted against the wish of a majority of the inhabitants of the locality. The introduction of the principle of local option into Indian Excise Law has been urged before. The question was exhaustively considered by the Government in the years 1888 to 1890, and the Government of India deliberately declared in the latter year that local option was impracticable in this country (*see* paragraph 98 of their despatch to the Secretary of State for India, No. 28, dated the 4th February, 1890, published on page 241 of the Supplement to the Gazette of India of the 1st March, 1890). No change has since occurred in the habits or feelings of the people such as would justify the re-opening of this question, and we have accordingly left it untouched by the Bill.

4. Under existing arrangements, however, although the granting of licenses is not left to the control of local opinion, steps are taken to ascertain what local opinion is before licenses are granted, and all due deference is paid to such opinion when ascertained. This is done in pursuance of clause (4) in paragraph 103 of the Despatch mentioned above. Thus in Calcutta, rule 9 (5) on page 80 of Volume I of the Excise Manual, 1903 (which is sold at the Bengal Secretariat Book Depot), declares that—

No shop shall be opened on a new site unless a notification shall have been affixed, at least 15 days before the grant of the license, at the nearest police-station and in some conspicuous place on or near the proposed site. The notification shall state, for the information of the public, that it is proposed to open a shop (specifying the kind of shop) on the site in question; and the Superintendent shall carefully consider all objections urged by the inhabitants against the opening of such shop, in communication with the Commissioner of Police; and, in the event of a difference of opinion, shall refer the matter, through the Commissioner of Excise, for the decision of the Board of Revenue.

“It seems to me, Sir, that these paragraphs of the Report of the Select Committee do not deal either exhaustively or effectively with the principles enunciated by the Government of India in paragraph 103 of the Despatch referred to. The Government of India, it is true, in paragraph 98 of that despatch stated that the local option was impracticable as a principle to be applied to all India; but that statement is qualified to a considerable extent by the observation that ‘any system of local option presupposes the existence of a highly-developed system of local or municipal institutions to which representatives are elected by the mass of the people, and in which all conflicting interests command their due share of attention. No such system exists in India.’

“That observation of the Government of India must be read as referring to the state of things at the date of this Despatch. Since then there has been a considerable change in India. There has been the establishment of a large number of local and municipal institutions to which representatives are elected by the mass of the people, and in which conflicting interests command and receive due attention. But, Sir, conceding that local option in the sense of, and to the extent of, absolute prohibition of the sale of intoxicating liquors and drugs is even now beyond the range of practical legislation for the reasons assigned in the Government Despatch, there seems to me, regard being had to the subsequent clauses of this despatch, no sufficient reason assigned why in the Bill now under consideration legislative effect should not be given in Bengal, where local institutions and the system of Municipal Government so largely prevail to the principles (3) and (4), enunciated in that Despatch, namely,—

- (3) that the number of places at which liquor or drugs can be purchased should be strictly limited with regard to the circumstances of each locality; and
- (4) that efforts should be made to ascertain the existence of local public sentiment, and that a reasonable amount of deference should be paid to such opinion when ascertained.

“The Government of India go on further to add that ‘the steps we have recently taken in the direction of providing that public opinion shall be consulted have already been explained in Despatch No. 157 of the 25th May, 1889, and Your Lordship has approved them.’ The Government say in that despatch:—

The Government of India are inclined to think that the procedure adopted in Bengal, where distinct instructions have been given to the licensing officers to ascertain and consider local opinion, and directions have been issued that where municipalities exist the Municipal Commissioners should be consulted in determining the location of shops, might be generally followed with advantage. But having regard to the varying conditions of different provinces, it has been thought desirable for the present to leave to Local Governments full discretion to decide what measures are expedient in each case.

"In clause 105 of the despatch of the 4th February, 1890, the Government thus sums up the position:—

The practical measures which we propose to adopt in furtherance of our declared policy comprise (1) the abolition of the farming or outstill system in places where it is found practicable to do so; (2) the gradual introduction of the central distillery system in its least complex form; (3) the imposition of as high a rate of duty on country liquor as it will bear, subject to the limitation that such duty shall not exceed the tax levied on imported liquor; and (4) the restriction of the number of shops. Where the outstill system is retained we shall, as far as possible, enforce the limitation on the capacity of the still, and in some instances a minimum selling price.

We do not anticipate that the carrying out of this policy in a rational manner and with reasonable regard to the circumstances of the country will lead to any loss of revenue. On the contrary, we believe it will be as successful from the financial as from every other point of view.

"I have been given to understand that the outstill system having been found unworkable has been discarded in Bengal proper, but is continued in Bihar and Chittagong. This Bill, however, still continues the farming or outstill system. Any one who considers what the farming system is must appreciate at once that it leads to the maximum of consumption with the minimum of return to Government in the shape of Excise. Every gallon of liquor that can be made, and there is an abundant opportunity of doing so, surreptitiously, owing to the large number of outstills, is a distinct profit to the farmer and a loss of revenue derivable from excise. The farming system also leads to this, that it is the interest of the farmer to push the sale of intoxicating liquors and drugs beyond reasonable limits.

"Fifteen years ago these principles were enunciated by the Government of India, and these instructions were given to the licensing officers to ascertain local opinion, and directions were issued that where municipalities existed the Municipal Commissioners should be consulted in the determination of the location of shops. In the 'Report of the Material and Moral Progress of India, 1901-1902', I read 'definite orders have been passed in accordance with the principles formulated by the Government in 1890 to the effect that before any new site for the establishment of a shop was settled, reference should be made to local opinion, and that any reasonable objections should be considered.'

"Since the date of the despatch of 1890 there has been, as I have observed before, a great growth of municipal and district bodies throughout India. The Government is consequently now in a far better position than it was then to ascertain the local public opinion as to the condition under which, and the places in which, within any given area, intoxicating liquors and drugs should be sold.

"In view, Sir, of the principles thus enunciated by the Government of India, I venture to inquire whether the number of places at which liquors and drugs can be purchased in Calcutta or elsewhere in Bengal have been restricted or not, and whether in the district or municipal areas in Bengal the District Boards or Municipal Commissioners have been consulted as to the number or location of liquor shops. It must be possible, no doubt, if the number of liquor shops has been restricted and the District Boards and Municipal Commissioners have been consulted, for the Hon'ble Member in charge of the Bill to place on the table a copy of any such restriction or reference to such local bodies. But even if any restrictions have been issued, is it not a fact that the principle of restriction enunciated by the Government of India has been honoured rather in the breach than in the observance?

"What steps have been taken to ascertain from the municipalities throughout Bengal their opinions as to the number or location of licensed shops within areas under their control? To judge from the 11th paragraph of the Majority Report there have been none. It would appear that the Corporation of Calcutta, not the least important of the various municipal bodies in Bengal, has not been consulted. What is done at present? Simply, according to the Report, when a liquor shop has to be opened at a new site, a notification, four or five days

previous, is affixed to the nearest police-station and some conspicuous place at or near the proposed site; and then, forsooth, the Superintendent of Excise is directed to consider the objections urged by the inhabitants in communication with the Commissioner of Police, and in case of any difference of opinion the Board of Revenue is to decide the question. That is the very body which is specially charged with the case of the Excise revenue of Bengal, has to decide. *Quis custodiam custodiet.*

"The Board of Revenue is an Archaic institution: it is a relic of the olden times when the system of a paternal or *ma-bap* system Government, prevailed, and they had innumerable duties to perform. It has many and manifold duties to discharge. It has to deal with the revenue and partition of estates, with wards and minors and their marriages and the allowances to be given them. This Board consists, as Hon'ble Members are aware, of two senior members of the Bengal Civil Service. I know of no post in this country which is a more desirable one than that of being a Member of the Board of Revenue. The Board of Revenue answers to Lord Eldon's description of a Corporation: 'It has neither a body to be kicked nor a soul to be damned.' It is not subject to any Court. None of its decisions are open to appeal, nor as a rule have the public the right even to be heard before the Board save in some special matters. They are subject, as I understand, alone to the administrative control of the Lieutenant-Governor of Bengal. But over and above these multifarious duties, the Board of Revenue has other duties connected with the Excise Department. Under these circumstances, it does seem to me that they are the last body in the world to which there should be given the extraordinary power of rule-making which is given in this Act.

"This skeleton legislation is not legislation properly so called: it is by its power of rule-making a delegation of legislation, but it does not by reason of the want of stability and publicity, meet the wants and requirements of the people who should know what are the laws under which they live and by which they are to govern themselves. Anyone, and I am prepared to speak as a lawyer of some experience, knows that it is far more difficult in this country to find out what the law is, than when found out, to interpret it. It is to be found in numberless Gazettes and notifications and rules and orders which are not to be found collected, so far as I am aware, in any convenient form. There are no doubt a number of them collected in the Excise Manual and treatise dealing with the rules of the Excise Department.

"The Corporation of Calcutta have no voice in this matter nor, so far as I can see, have any other Corporation in Bengal, notwithstanding the express instructions of the Government of India that the municipalities are to be consulted. There is a clause, Sir, section 98, which might perhaps be so amended as to give the powers that are therein assigned, but as at present worded it does not, in my humble judgment, provide for the matters with which I am now immediately concerned; that is, as to say, the question of determining and fixing the number of public houses in any given area and the sites and locations of any new or existing intoxicating liquor and drug shops.

"Turning next to the papers which were placed before the Select Committee, it would seem that the number of public houses, liquor and drug shops are to a very great extent in excess of the needs of the locality, more especially in Calcutta. It is stated, and any one can verify the statement, that they abound in the neighbourhood of Bentinck Street and there are numbers of them also near the Docks. I see it stated that at the Talla Waterworks, in opposition to the memorials and express wishes of the residents, a grog-shop was there opened.

"I find also from these papers that these shops for the sale of liquors and intoxicating drugs have been set down opposite schools and colleges, places of worship, hospitals and dispensaries. I believe that I am right in saying that the location of them in such places is contrary to the expressed wishes of the Government, but so long as there is no legislation on the

matter, nothing can be done. Orders are given and these orders are for awhile carried out, but after awhile things revert to their former state.

"It has been stated in the Council of His Excellency the Viceroy that an immense evil has followed from the setting-down of these shops in the neighbourhood of the Tea Gardens, and that the result which always follows either there or in Bengal is, that as surely as shade follows sunshine, so does crime and disease follow drunkenness.

"I am, Sir, not one of those who consider that drink is *per se* wrong. It is, as all the creatures of God are, good in itself. It is the abuse of it which leads to mischief. There is in itself no more evil in drinking wine than in eating bread and butter, though of course the evils which flow from excessive drinking are of a most deadly and debasing character. What, then, is the result? It is an increase in drunkenness and an increase in crime, and I doubt not that it could be fairly proved, an increase, in disease, arising either directly from the taking in excess of intoxicating liquors, or indirectly from the passions which are aroused by such excess.

"Doubtless it is a fact that there has been a great increase in the Excise revenue of the country. I can well believe it. But what of the condition of the people? Is not their material and their moral condition of far greater value to this country than a rise in the revenue derived by the Excise Department? Well, Gentlemen, what is the remedy for this? Does this Bill supply any remedy? I submit that it does not as it should and can be made to do. It is a Bill, as declared expressly in the preamble, not only to consolidate and amend the law in force in Bengal relating to the manufacture, sale, possession, import, export and transport of excisable articles, but also to the regulation and licensing of places in which such articles are sold, and to the collection of the revenue derived from such articles.

"And what do we find here? We find that the whole matter is here left to the Board of Revenue to make rules for the granting of licenses or permits under this Chapter, and the majority of the Select Committee are of opinion that it may be left to that body to make rules which will secure the taking of the opinion of the inhabitants of any given area as to the propriety or otherwise of setting up a liquor shop in an area where one or more of these already exist, although those existing may be sufficient for the purpose. I venture to think otherwise and to insist that there should be clear enunciation in the Bill of the principles on which those rules are to be made.

"Under section 42 the Board has to make rules, so far as I can see, on almost everything which is material for this matter. The Board has the power of determining the number of licenses, of prescribing the form of any license or permits the fee (if any) payable for any such license, the place of sale, the hours during which licensed premises may or may not be kept open, the class of persons to whom excisable articles may be sold, the prevention of drunkenness, the employment of women and children, and other things. Here I pause for one moment. If the Council will look at section 38, you will find that the Select Committee have actually gone out of its way to enable the Board of Revenue to license the employment of children under 14 in the grog-shops. Is there any conceivable reason in the world why children under the age of 14 should be initiated into the evils that are almost necessarily attendant on being in such places? We are told that the Select Committee were unanimously of opinion that liquor should not be sold to children under the age of 14. I am glad to hear it, but if this is so, why has not that been put into the Bill? Why should not there be some definite statement of the policy of this great Province in respect of the sale of liquor? Until there is such an embodiment of that policy, I see no help for the evils that are existing.

"The Select Committee have in the Majority Report expressed their dissent with regard to many of these matters, but I submit that it is in the highest degree desirable and necessary so as to give effect to the principles

enunciated by the Government of India, to which I have adverted, to prevent the sale to children and habitual drunkards and, perhaps, also to women, and to prevent, as far as possible, the spread of drunkenness, that this Bill should be re-committed to the Select Committee in order that they might apply their minds, which I do not think they have done, at least not effectively, to the questions upon which I have been speaking. They have assumed, as I think, that when some of the memorialists speak of local option, they mean and refer to an option involving the absolute prohibition of the sale of liquor in any area. So far I am at one with them, but the majority of the memorialists spoke of local option in another and different sense—the sense in which the Government of India speak about it—of taking the opinion of the country within given areas as to the places and locality at which intoxicating drugs and liquor shops should be set down, and as to the needs and requirements of the people for such shops.

“The Bill, Sir, is one which will continue for a number of years to come to be the law under which this country shall be governed as regards matters of Excise, and I object in the most emphatic terms to leaving almost unlimited powers in the hands of the Board of Revenue. In respect to the manufacture, sale, possession, import, export and transport of excisable articles and the licensing regulation of premises, I submit that the Act itself should lay down clear and definite principles for the guidance of the Board of Revenue in making these rules, and that there should be a distinct provision made, therein for taking the opinion of the inhabitants and of the rate-payers in any municipality.

“I cannot conceive why in a place like Calcutta, where we have a gentleman, like the Hon'ble Mr. Greer, as Chairman of the Calcutta Corporation, the Corporation should not have a voice in determining what are the requirements of Calcutta. I do not think he would approach the question in any niggardly spirit, but he would, as would any of his successors, deal with the matter in a broad and just manner.

“We have had memorials on the subject from every class of the community. We have had memorials from Christians, from Hindus, from Muhammadans, from the inhabitants of Calcutta, from various Associations, from the Landholders' Association at Bhagalpur, from the Muhammadan Defence Association. In fact, every section of the community have represented their views against this inefficient measure. Speaking for myself I cannot find in it any effective check against the increase of the number of houses for the sale of intoxicating liquors and drugs, or any provision either for ascertaining the wishes and requirements of the public in that matter or for preventing the evils of drunkenness.

“Notwithstanding the Government Despatch and the memorials placed before the Committee, the matter stands in exactly the same position as it did, with one exception, viz, that a clause has been introduced, and I welcome it, to make it punishable to sell liquors to drunkards. Everybody will agree that this is a step in the right direction. But why should there not be in the Act a prohibition to sell to children and habitual drunkards, even if women are not to be included in it?

“It was said by Your Honour, when on the introduction of this Bill I called attention to certain amendments which I had proposed when Act II of 1903 was under consideration in Select Committee, that there might be difficulty in enforcing those amendments, regard being had to the Police system in this country. I am well aware of such difficulties, but with all respect I venture to suggest that the remedy is to reform the Police. At all events, if the matter is taken out of the hands of the Commissioner of Police, and Excise Superintendent, subject to the control of the Board of Revenue, and placed in the hands of the Chairman of the Corporation of Calcutta, or of any other Corporation, they would no doubt exercise a just discretion, and, in this way, the execution of the Act would be in great measure put beyond the risk of interference on the part of the Police. That, Sir, is the form of the

local option which, I understand, the memorialists ask for, and that I feel bound in conscience to request that this Council shall direct its attention; and in that view, I ask that the Council shall direct that this Bill may be re-committed to the Select Committee to consider how they may deal with this matter. It will not be beyond their powers to do so.

"I respectfully submit, Sir, that giving due weight to the great principles which have been enunciated by the Government of India, the amendments which may then be proposed will be found to fall strictly within the range of practical politics and legislation, and that the welfare of the people committed to your charge in Bengal will be improved and effectively gained. As the Hon'ble Members of the Council will observe, the motion which stands in my name is divided into three parts; they are all governed by and intended to be so, by the first portion of the motion, *viz.*, that the Bill may be re-committed to the Select Committee with instructions to re-consider and so amend the same as to secure by express and direct legislative enactment.

"There are strong objections to this general rule-making power by the Board which is taken in this Bill. I desire that there shall be direct legislative statement as to the persons by whom and to whom, and places where, and the conditions under which, public houses may be established and licenses granted in any given area. I quite admit that the Board of Revenue, when once these principles are laid down in the Bill, will then have a safe ground upon which to go in making their rules. The proper function of this rule-making power is to make rules with respect to matters and things which have been definitely stated, clearly defined, and have the sanction of the Legislature. I do not think that they should have power to make a rule to-day which may be rescinded to-morrow. The people of Bengal are entitled to know what are the conditions under which they live and what are the limitations under which this rule-making power is to be exercised. That forms the premise of my motion. It is that direct and express legislative effect should be given to the policy of the Government of India enunciated in paragraphs 303 and 304, that is, that the number and places of licensed houses shall be strictly limited and located having regard to the circumstances of each locality, and that efforts should be made to ascertain the feeling that exists in any locality, and that deference should be paid to this opinion.

"The next paragraph deals with the question of the sale of intoxicating liquors and drugs to women and children. At home, where also there is a great and increasing growth in drunkenness, the Legislature has made it penal to sell liquor to children under the age of 14 and to persons who are habitual drunkards. There can be no greater difficulty so far as the Police are concerned in putting that on the record in this Act, than there would be in the Board of Revenue, under the auspices of my Hon'ble friend in charge of this Bill, making a rule that liquor is not to be sold to children under 14 or to confirmed drunkards, or as the Bill itself provides to prohibit the sale of liquor to an intoxicated person. If these matters were put not in a rule but in the Act itself, there would be a great object gained there. It would appear on the Statute Book and the subjects of the King would know the law and be better able to regulate their conduct by it, and it would behove the officials to carry it out.

"Then it has been pointed out that there exist many ways and means by which the provisions of the law and the existing rules as regards the closing of public houses are defied. There are back-doors and side entrances and all sorts of ways and means by which persons may and do evade the liquor regulations. One looks in vain for any remedy for these evils in the Bill itself. We are told that the Board of Revenue will make rules. When? In the Greek calends? What have they done hitherto to restrict the number and regulate the places of these shops? Are we to be content with good intentions? I think it would be a far better way to provide for these matters in the Act itself and thus directly strike at the evils of crime and disease which follow drunkenness.

"It is stated in one of these papers that in 28 hours, the number of children who entered one of these public houses amounted to 43 or 44, and that of this a considerable number—16 or thereabouts—were drinking. One knows the evil which was met at home by legislation. Children are sent for their fathers' beer: the first thing they do is to take a sip. They want to see what the stuff is like that daddy drinks, and having done that they take another downward step and fill it up with water, and thus they learn two early lessons—the lessons of drinking and lying. Of course I admit that a country cannot be made virtuous by legislation, but it certainly can be prevented from descending at an ever increasing rate the downward slope of crime.

"For these reasons, I respectfully move the motion that stands in my name, and which I hope will be carried."

The Hon'ble Mr. BUCKLAND said :—"As the Member in charge of this Bill, entrusted with the duty of passing it through this Council, I am constrained to oppose the motion of the Honourable and learned gentleman who has just sat down. The motion which he has brought before the Council with such eloquence and feeling is one which I have to oppose as being unnecessary, as being undesirable, and as likely to prove not only infructuous but harmful. I say that that motion is unnecessary, because all that it proposes to do can be done perfectly well without it. There is no need whatever to have it inserted in our legislation that the principles of the policy of the Government of India should be given effect to by municipalities or other local institutions in Bengal. Nor is there any need for legislation to give effect to the other clauses of his motion, and I think it is a well-accepted principle of Government and of legislation that legislation should not be undertaken unless the need for it is shown.

"The principles of the Government of India have been stated at considerable length in that Despatch to which the Hon'ble Member has alluded and to which I shall have to allude at greater length, but in that Despatch, as far as I have been able to see, the word 'legislation' nowhere occurs, and no hint of legislation being necessary is given except in the second clause of paragraph 103 from which the Hon'ble Member quoted that 'the traffic in liquor and drugs should be conducted with suitable regulations for police purposes.' If the Council will read, or listen to me attentively while I read, paragraphs from the Government of India's Despatch and follow me carefully, it will be seen that there is nothing whatever there laid down which cannot be enforced by a rule under the Act as it at present stands, or by the Bill as we propose to pass it without any legislation such as the Hon'ble Member proposes.

"I also say that this motion is undesirable, because if I rightly followed the Hon'ble Member he proposed to introduce the important but dangerous principle of local option. Now on an occasion like this I think it is essential that not only this Council but the much larger public which take an interest in these matters should be privileged to know the whole case and not be put off with mere extracts or words and paragraphs in the Despatch which is not accessible to many of us.

"I therefore beg with your permission, Sir, to trespass somewhat on the indulgence of the Council, and as I say largely with a view to the greater audience which is listening to us or will listen to us outside these walls that I ask you to allow me to read the paragraphs in the public despatches; for these papers were not in any way secret, but were published in the Gazette of India on the 1st March, 1890; they dealt with local option and will show anybody with an unprejudiced mind that the subject was fully dealt with and that local option was then pronounced to be an absolute impossibility, and it is therefore undesirable now to re-open the question, because nothing has happened since 1890 to alter the circumstances which existed when that Despatch was written. I will ask your permission to read the paragraphs of the despatch of the 4th February, 1890, which refer to local option.

DESPATCH TO HER MAJESTY'S SECRETARY OF STATE, No. 29, DATED THE 2ND FEBRUARY 1890, REGARDING EXCISE ADMINISTRATION.

Local option impracticable.

98. A consideration of the arguments just referred to, as well as of others which we need not here specify, has convinced us that absolute prohibition, and what is known as local option, are both out of the question in India. A system of local option would throw the whole administration into confusion, and would in some places create an intolerable class tyranny which might have very serious political effects. We doubt greatly if a Sikh community would quietly submit to the total prohibition of liquor by a Muhammadan majority, and we believe that in some tracts local option would lead to the indefinite multiplication of liquor shops and the reduction of the rate of duty to a minimum. We have already dealt with this question at some length in our Despatch to Your Lordship, No. 167, dated 26th May, 1889. As was stated in that Despatch, any system of local option presupposes the existence of a highly-developed system of local or municipal institutions to which representatives are elected by the mass of the people and in which all conflicting interests command their due share of attention. No such system exists in India.

Difficulty of ascertaining public opinion on the question of drink.

99. Putting aside the question of local option, the difficulties even in the way of ascertaining what public opinion on the question of drink really is and of determining the amount of deference that may reasonably be paid to it are very serious. The widest divergence exists both in respect of the extent to which the habit of drinking is practised and of the degree of disapprobation with which it is viewed, and it is difficult to determine what meaning to attach to public sentiment on the question of drinking in a locality where one portion of the community regards drinking as a social or even religious duty, while another portion regards the consumption of spirits in any form or quantity as a positive sin.

101. Between the two extremes to which we have referred there exist in India classes of all shades and degrees of opinion and practice in regard to the habit of drinking, for whom drinking is neither enjoined nor absolutely forbidden by their religion. For example, the Sikh religion permits drinking, and many classes of Hindus, of some standing in the social scale, are not forbidden to drink either by caste rules or custom, and do in practice resort to the use of stimulants in a greater or less degree. In addition to the numerous classes falling under this intermediate head, whose religion and opinions are of an origin independent of European influence, there are also the Europeans, the Eurasians, and the Native Christians, whose habits and opinions must be considered in framing Excise regulations.

In many places these classes live side by side, and restrictions on drink which would be viewed as beneficial by one class would be considered by others to be tyrannical, while it is obvious that an Excise system, which might be suitable for, and approved by, one of these numerous classes, would be unsuitable for the majority of the other classes.

For Muhammadans and Hindus of certain castes no special restrictions are necessary in order to discourage drinking. The habit is opposed to their religious principles, and is discountenanced by the public opinion to which they are subject. It is no doubt true that some Muhammadans and some Hindus, for whom drink is forbidden by their religion, do drink secretly or openly, but this is either because they choose to disregard in this respect the principles of the religion which they profess, or because they have adopted Western habits and modes of life. In such cases any restrictions that Government could impose would be of infinitely less force than those which have been already disregarded.

On the other hand, almost all Europeans and Eurasians and many Natives of India, especially the aboriginal tribes, would regard severe restrictions on drinking as an unnecessary and tyrannical interference with their modes of living. Such restrictions would be frequently disregarded by these classes and would provoke a spirit of opposition, the strength of which is ignored by those who favour prohibition, whether enforced universally by Government, or locally and partially through the means of local option.

102. The considerations we have stated point to the conclusion that it is not merely impracticable and impossible to prohibit the use of stimulants in India, or to introduce a system of local option, but show also that it is impossible to introduce any Excise system that would be equally well adapted to all classes of the population of India and would be in complete accord with such public opinion as may be said to exist in different parts of the country. Nor could distinct and separate systems be applied to each of the several classes described or to groups of them. These classes are not distributed simply with reference to

considerations. The inhabitants of some districts are no doubt more given to the habit of drinking than those of others; but many of the varying degrees of disapprobation of the practice of drinking are represented in every district; and everywhere, or almost everywhere, there are both people to whom drinking is forbidden by their religion and people for whom it is permissible and who do as a fact drink more or less whenever they can afford to do so. Any Excise regulations which could be adopted for a particular locality must necessarily fail to be suitable and acceptable in respect to at least some portion of the inhabitants.

"I now turn to the despatch No. 157, dated the 25th May, 1889, to which allusion has already been made. It went even more fully into the question—

7. Turning now to the second and wider question raised by the memorialists, namely, that of local option, we are led by a careful consideration of the subject in all its bearings to the conviction that, under the circumstances which now exist, no such system could be successfully administered in any part of India. Any scheme of "local option" presupposes the existence of a highly-developed system of local or municipal institutions, to which representatives are elected by the mass of the people and in which all conflicting interests command their due share of attention. In the communities in which such institutions are to be found, the necessary control over the actions of the representatives is secured by the right of periodical appeal to the judgment of the people. In India there is no representation of this character: the electoral system, so far as it has been introduced, rests upon the narrow basis of a restricted franchise and large masses of the people and those the least able to make their voices heard are without representation of any kind. No effective check could, therefore, be placed upon the capricious exercise of the power of granting or refusing licences if it were entrusted to Municipal Committees or Local Boards.

8. "The peculiar conditions of society are," to use the words of the Lieutenant-Governor of Bengal, "such that it is altogether impossible to delegate to local bodies the power of dealing with the complex and difficult problems connected with Excise Administration. In the first place, it is not allowable for members of the Muhammadan community to openly countenance or tolerate in any way the consumption of spirituous liquors. The use of spirits is forbidden by the Koran, and the representatives of this community would undoubtedly, were it in their power, uniformly declare against the grant of licences to sell alcoholic stimulants." And again, notwithstanding that many Hindu gentlemen are entirely free from all prejudice in the matter, the general feeling amongst them is adverse to the consumption of spirits, and they would in most instances join with the Muhammadans in negating proposals to grant licences. On the other hand, the lower classes who habitually resort to stimulants, and who seldom use them in immoderate or injurious quantities, but in many cases as an antidote to the climatic influences to which they are exposed, are entirely unrepresented upon Municipalities and District Boards, and would, were their supply of liquor removed, be undoubtedly forced to have resort to illicit distillation and consumption. We are led by these considerations to the conclusion that it is altogether chimerical to expect that the lower classes could, by the removal of liquor shops, be driven to habits of strict temperance; and that the Government would be guilty of a dereliction of duty if it were to permit the creation of the class tyranny that would inevitably result from the adoption of a system of local option.

9. We fear that the advocates of temperance in England who press for the adoption of this system of administering the liquor traffic are not well informed regarding the peculiar structure of Asiatic society in general and of Indian society in particular. To attain even a partial success, "local option" demands a certain homogeneity of character, tastes, and moral standards in the community into which it is introduced. In India this condition does not exist, society is not so much an aggregation of individuals as of classes, and, moreover, of classes whose habits, opinions, and views of right and wrong are widely divergent. On such elected bodies as exist there are no representatives of the great mass of the people, and if the licensing power, unaccompanied as it would be with any kind of responsibility, were entrusted to Municipal and District Boards, it seems very probable that it would be exercised without much forbearance or regard for the susceptibilities of those chiefly interested. It is idle to expect the difficult problem of the administration of the liquor traffic to be solved by the votes of representatives who are subject to these disabilities, and in our opinion no system of "local option" could be devised that would not, under the conditions that have to be dealt with, be doomed to failure.

10. Your Lordship is aware that even in countries where no violent differences of social habits and tastes exist, where representation is fully developed and political life most active, attempts to enforce abstinence under penalties have not been altogether successful or useful to the cause of morality; and we have little hesitation in coming to the conclusion that such attempts would be wholly unsuited to the existing conditions of this country, and that even if representative institutions were more completely developed than they are, it would be exceedingly unwise to make India a theatre for experiments of this nature. These

grave difficulties which are not absent even in the most advanced cities of the Empire would be especially felt in the smaller municipalities and outlying districts.

11. But while fully convinced of the impracticability and impolicy of introducing, or attempting to introduce, now or within any measurable distance of time, into this country any general system of local option, we are of opinion that no genuine expression of public opinion should be ignored in deciding whether a liquor license shall be given or not, and particularly in determining the location of a shop. To enable us to place accurately before Your Lordship the facts regarding the extent to which deference is now paid to local public opinion, we called for information from Local Governments bearing upon this aspect of the case. A brief summary of this information is now given:—

18. In Bengal more specific instructions have been issued for the guidance of the responsible officers in such matters. They have been instructed, in the Circular quoted in paragraph 2 of the letter from the Government of Bengal, which forms one of the enclosures to this Despatch, to ascertain and to consider, though not necessarily in all cases to conform to, local opinion. Where municipalities exist the Board of Revenue has been specifically directed to see that the Commissioners shall always be consulted; and remonstrances made by local bodies against the selection of the site for shops are never disregarded without good reason. It is further particularly ordered that, save for special cause, no liquor shops shall be opened near market-places, schools, factories, and other places where they are likely to afford more than usual temptations to drink, or to offend public feeling.

“Those are extracts from the despatches of the Government of India. The Government of Bengal wrote very much to the same effect. In fact, their despatch to the Government of India, dated 19th February, 1889, when Sir Stuart Bayley was Lieutenant-Governor, was in the hands of the Government of India when the latter wrote the despatch from which I have just read. I do not think the Council will thank me for reading these despatches which are rather long. The Bengal Government's letter is as follows:—

14. Turning now to the second question raised in your letter, I am to say that the Lieutenant-Governor is convinced that it will not be possible to introduce into Bengal any such system of local option as has been advocated by the Associations who have presented memorials to the Secretary of State. The peculiar conditions of society in this country are such that it is altogether impossible to delegate to local bodies the power of dealing with the complex and difficult problems connected with Excise administration. In the first place, it is not allowable for members of the Muhammadan community to openly countenance or tolerate in any way the consumption of spirituous liquors. The use of spirits is forbidden by the Koran. As a matter of fact, Muhammadans in Bengal are, as a rule, very abstemious, and the upper classes, rarely, if ever, indulge in drinking. The representatives of this community would undoubtedly, if it were in their power to do so, declare absolutely for the prohibition of all alcoholic stimulants. It would be incumbent on them, by the tenets of their religion to do so. A Muhammadan gentleman, although he may tolerate the consumption of spirits by others when he is not responsible for its repression, could not venture to rise in his place at a meeting of a Municipality or District Board and authorize the establishment of a liquor shop anywhere or under any restrictions. Similarly, in the case of Hindus, who are not restrained by any religious sentiment from dealing fairly with Excise questions, it is no less the fact that the upper classes of the community who, from the nature of the case, can alone find representation in local bodies, are equally precluded from openly countenancing the establishment of shops for the sale of liquor. Notwithstanding that many Hindu gentlemen are without prejudice in regard to spirit-drinking amongst themselves, and will occasionally indulge in private, it is a matter of notoriety that public opinion on the subject runs so strongly among them that one and all of them, including those who drink in private would object in the same manner as the Muhammadans would do to any proposal for licensing a spirit shop. The influence of public opinion operates almost as strongly within the Hindu community in this respect as does the direct teaching of the Koran upon a Muhammadan. If therefore power without responsibility is entrusted to local bodies, whether Municipalities or District Boards, consisting as such bodies must do of a large majority of Hindu and Muhammadan gentlemen, there can be no doubt but that the lower classes who are not represented, but who habitually use stimulants, would be driven to the consumption of illicit liquor, and the whole system of Excise administration would be thrown into confusion. This condition of things is not likely to be materially modified for many years.

15. It is necessary for the Government to guard against any such class tyranny as the introduction of local option in this country would infallibly create. There is a certain proportion of people in Bengal, fortunately a proportion much less than obtains in most

other countries, but still considerable, who are accustomed to drinking, and whose craving for stimulants must be satisfied. "It is," as Mr. Money wrote in the Minute which has already been quoted in this letter, "mere foolishness to expect that a certain proportion of the people of this country will not continue to use stimulants, or that the Excise revenue will not increase. As the upper classes adopt more and more European habits, we must expect to see them take the bad with the good, and probably at first even more of the bad than of the good; while as the position of the lower classes improves, as agricultural produce yields a better price to the cultivator, and yearly the number increases of men, women and children who earn a livelihood, such as they never dreamt of, in mills and factories, there will be a larger consumption of everything the mass of the people care for. They will wear more clothes, they will eat more food, and they will drink more liquor. Any attempt to enforce sobriety in a country where illicit distillation is so easy and so difficult of detection would be a failure. All we can do is to limit ourselves to supplying the demand, and not to create it; to open no new shops except on proof that they are required to meet an existing want, and to act on an honest recognition of the truth that the Excise revenue is a very small matter in comparison with the comfort and well-being of the people." It is not the case, with the great bulk of the lower classes who habitually use stimulants that they drink only for the purpose of intoxicating themselves. The statement is frequently made, but it is not more true than it would be if applied to similar classes in England. If, however, this were the case, it would still be impossible to enforce sobriety by the prohibition of drinking, and were it possible, the risk must always be great that those who are used to drink would be driven from the comparatively innocuous spirit of the country to the consumption of more injurious drugs. It is mainly for the protection of the labouring classes who are accustomed to some stimulant that is incumbent on the Government to retain its authority over the liquor traffic, and while regulating consumption by every means within its power, not to deny altogether to the unrepresented masses the opportunity of satisfying their reasonable craving. It cannot be expected that local bodies would be in any degree representative of the classes who are affected by local Excise measures. To entrust the Excise administration of the country to their hands would lead to class intolerance and class restrictions, which can only be obviated by the direct and independent action of Government.

16. At the same time the Lieutenant-Governor is of opinion that a proper deference should be paid to expressions of local opinion in questions connected with the liquor traffic as well as in other matters. It is the duty of the Government to ascertain the sentiment and desire of the community amongst whom liquor shops are introduced to comply with it whenever possible and not to overrule it except under circumstances where such a procedure can easily be justified. The expression of opinion of Municipalities and District Boards, especially in regard to details, such as the choice of sites and the like, will often be a valuable exponent of public feeling to which due attention should always be paid. Such local sentiment is entitled to consideration, and it will be found that various orders have, from time to time, been issued by this Government and the Board of Revenue in which the observance of this policy is enjoined. It has been directed that the sites of shops should not be chosen near to market-places, bathing ghats and places of public resort, schools, hospitals, places of worship, factories, the interior of villages, the sides of roads leading to bathing ghats or places of water-supply, and in some districts along main roads or in villages inhabited by aborigines of known drinking habits. The existence of a nuisance by reason of the establishment of shops is not tolerated, and every possible concession to public opinion is accorded in such matters. The Lieutenant-Governor, however, cannot admit that, under the existing conditions of these Provinces, there is any justification for going further than this, or for introducing in any shape a system of local option among local bodies, and for entrusting them with the power to prevent the sale of liquors.

"I say that in the face of these expressions of opinion on the part of the Government of India, only 14 years ago, since which time I say, with all due deference to the Hon'ble the Advocate-General, the circumstances have not changed to any material degree, it would be perfectly useless to address the Government of India and ask them to agree to any system involving 'local option.' I say, subject of course to the greater knowledge of the law possessed by the Hon'ble Member, that I believe it is a fact that since the year 1890 no great law dealing with either local self-government or municipal administration has been passed either by this Council or by the Government of India, with the exception of the Calcutta Act which we debated in this room for 12 days in September, 1889. Therefore the circumstances, I maintain, remain very much the same. I do not think that it can be said with any show of reason—certainly no arguments or facts of any sort have been advanced—that the character of the people has in any way changed during this number of years.

"I have read extracts from the Indian public documents on the subject of local option. It may be said that local option is a subject which has been

much discussed in England and is in force in other countries in Europe. I believe it is a fact that Sweden and Norway are the only countries in which local option is enforced. I do not see why living in Bengal we should go to Sweden and Norway for an example to imitate or follow. It is quite good enough for us, if we, at any rate, advert to the latest dictum on the subject in England.

"Some Members of the Council may be aware of the Report of the Royal Commission on the Liquor Licensing Laws which sat under the orders of Parliament in 1898 to 1899 and presented the report which I held in my hands to the Houses of Parliament. That Commission sat under the presidency of Lord Peel, late Speaker of the House of Commons. It very soon, as I understand, showed that there were two parties in that Commission, and it was impossible for them to agree. They presented what is called a Majority Report and what is called a Minority Report. Both dealt with local option. The majority reported:—'We are not satisfied that there is at the present time a general desire for the power of local prohibition by plebiscite, and we do not advise the adoption of any of the plans for this purpose which have been submitted to us.' Of course total prohibition is one thing and local option is another, but when they said 'any of the plans for this purpose' they obviously included local option. Those are the relevant words of the majority's report. I will now turn to the minority's report. They were naturally anxious to do something for the introduction of local option. They went into the subject of what is called 'popular control' at very considerable length, gave a history of the proposal of 'local veto' and set out in a page and-a-half the arguments in favour of local veto and then the arguments against it. They summed up as follows:—'In sparsely inhabited districts local prohibition could probably be enforced without much difficulty, but in towns, even where a strong public opinion existed, violation of the law might take place with injurious consequences. We have no evidence before us that public opinion in England, whatever it may be in Scotland and Wales, is at all strong enough to justify such a measure. We must recognise the fact that most people still regard alcoholic liquor as an ordinary article of diet, which is only harmful if taken in excess. It would be rash to predict the course of public opinion during the next decade, but since in any case local veto could not be tried until the seven years to be allowed for reduction had expired, it might be well to postpone any decision as to its adoption or otherwise until that period of transition has expired.' That was all they had to say in favour of local option. If that is the last word that has been said by an authoritative body on a subject of such great importance—said in England where there are not so many interests of classes and races likely to break out and give considerable trouble to the administration as there are here—if that is the dictum in England, where drunkenness, I regret to say, has assumed much more alarming proportions than it has in India, I think we may safely say that the time has not yet come when local option should be introduced into India.

"I should be immensely surprised—indeed I cannot conceive it possible—that the Government of India should go back from their fully-reasoned decision of 1899 and allow the Government of Bengal to pass an Act which would allow local option to be introduced in District Boards and Municipalities and made the sport of every section of the community—a constantly recurring source of dissension in every body of Municipal Commissioners or District authorities,—one that, I am sure, will do more harm than good to the people. Therefore I say that this motion would be infructuous and it would be harmful if carried. It would be infructuous because we should be merely wasting our time in re-considering this matter in Select Committee, because the Government of India will be perfectly certain to veto such a Bill, and harmful, because it would undo all the good which has been gained by the years of labour spent in the improvement of the Excise law and the reports of many officers and of the Government of Bengal as well as of the Board of Revenue. It would waste all the time spent on it in Select Committee; all that has been done would go for nothing. Therefore, I entirely oppose the Hon'ble Member's motion which is before us.

"I will now, with your permission, proceed to take up some of the points which the Hon'ble Member has dealt with in more or less detail. He asked why we should not put into the law in sub-clause (b) the prohibition of the sale of liquor to women and children? The Select Committee expressed their willingness to recommend that power should be given to the Board to frame rules for the prohibition of the sale of liquor to children under the age of 14. One good reason why we could not legislate on the subject without reference to the Government of India is, that we have the express orders of the Government of India not to do so. That is contained in the Despatch of the Government of India of last autumn. But there is another very good reason why we should not introduce this into the Bill, namely, because we can do all we require without it. We have only got to put the same point into a rule under the Bill, under clause 43 (s), and it will be just as effective as in the law. The great objection to putting it in the law is, that it would then apply to the whole of the country. Now there are many parts of the country where women and possibly children are accustomed to buy liquor, and if that power of buying liquor was suddenly taken away from women and children, in districts, say, inhabited by Sonthals and other aborigines, I think I am not pressing the point too far when I say that you might have a rebellion. At any rate the Board can, with the greatest ease, when this Bill is passed, pass a rule that no liquor should be sold to women or children under 14. That would be just as effective as having it in the law, and what is more we can alter it. It is important that there should be power in the hands of the Board to alter rules which are found to be working unsatisfactorily. If you wish to put a principle into law you cannot alter it without the introduction of a Bill and a debate which may extend over the whole field of Excise administration.

"The next point to which the Advocate-General drew attention, though I do not think he said very much about it, was that adequate and reasonable provision should be made therein so as to prevent the spread of drunkenness in Bengal. That is a counsel of perfection with which we all agree, and if any Hon'ble Member can show us in any concrete form or shape that we can adopt any reasonable suggestion to prevent drunkenness, for my own part, I should be quite willing to adopt it. We have in Select Committee in several instances inserted clauses, sub-clauses, forms of words, with a view to checking drunkenness as far as we could. We have even gone so far as Assam to draw from the rules obtaining there certain new clauses with regard to the prevention of drunkenness which have been introduced in this Bill. But there is no object whatever in making our statute law a receptacle of moral principles, or introducing into it expressions or sections laying down principles of Excise administration. What we want in a law is practical language for doing practical things. What I have said just now I venture to repeat, that in the law as now framed and the Bill which I hope will be passed into an Act ere long, we have a skeleton law under which it will be possible to make such regulations and rules as may be necessary to enforce the principles laid down by the Government of India.

"The Hon'ble Member has made some remarks, sometimes flattering, sometimes not so flattering, about the Board of Revenue. I am not here to defend the Board of Revenue, but I wish to correct the Hon'ble Member in one remark at least. He appears to think that, because under the law as it at present stands, and under the Bill as drafted, rule-making powers are invested in the Board, therefore the Board can do as they like and make any rules without the cognizance of any authority. I can assure the Hon'ble Member that he is entirely and absolutely mistaken in the view that he holds. The Board, being under the control of His Honour the Lieutenant-Governor—probably for very many years past, I have known it for more than 20 years—have been unable to pass any rules of any importance without the authority of the Government of Bengal. And when such rules as may be drafted by the Board for submission to the Government deal with legal points, the legal advisers of Government are consulted before those rules are passed or given legal effect. There is no reason whatsoever to apprehend that the Board of Revenue either as constituted at

present or in the future, will one fine day start off on a rule-making excursion without the authority of the Government for every rule they issue in any important matter.

"Then the Hon'ble Member, as I understood him, declared that this power, which is now given to the Board under the law and which they exercise in a certain way, should be taken out of their hands to a great extent by putting in another authority whom they must consult and defer to. It is within the knowledge of the Council—it is fully stated in the papers to which I have referred—that shops are not opened at any new sites without the public being consulted by a notification being issued at certain places expressing the intention of the Excise authorities to open a new shop. I will not trouble the Council by reading to them the rules which are to be found on page 77 of the Excise Manual as regards the districts, and with regard to Calcutta on page 80 of the same Manual. I will say briefly, that information is given to the public whenever a new shop is to be opened. I am perfectly aware that it has been said, and will be said, that nobody wants to go to a police-station to look for a notification in regard to a liquor shop. That may be so. I have no doubt in my own mind that these rules with regard to Calcutta are the survival of the old system which obtained when the Commissioner of Police and the Chairman of the Corporation were the same person. I think it is quite probable that the gentleman who was then responsible for Calcutta, both as Commissioner of Police and Chairman of the Corporation, knew in one capacity or another what was going on through the town. But when the Chairmanship of the Corporation was separated from the Chairmanship of the Police, the duty of being consulted with reference to the sites of new liquor shops remained with the Police but was taken away from the Chairman of the Corporation. It was not taken away by express enactment but departed from him owing to the new constitution. I have not the faintest objection in the world to my Hon'ble friend, the Chairman of the Corporation, being consulted before a new shop is opened. My only regret is for him. I am afraid he will know very little about it. I believe I have some knowledge of the work which is performed week in and week out by the Hon'ble Member, the Chairman of the Corporation. As far as I know, he has nothing whatever to do with the Excise administration of Calcutta and will be entirely at sea in the matter. But when all is said and done, and you consult as many people as you like, the public will never be satisfied unless they get the power in their hands, and that is the point at which I must join issue with the Hon'ble Member. Consult whom you like, consult the residents in the street, the members of the Corporation for the wards affected, consult the police, and take everybody's opinion, but the decision must rest with somebody, and must rest with the Board of Revenue as at present constituted under the law, and if any strong body of petitioners object to the decision of the Board of Revenue it is always open to them to appeal to the Government of Bengal.

"Similarly, in the mufassal the rule now provides for Municipal Commissioners being consulted by the local officers. I have before me a statement which shows that no reports have come up, for many years past, from the local officers to the authorities of Calcutta, of any disputes in regard to the opening of any site for shops in the mufassal towns. They have managed to settle their own affairs for themselves, and I cannot conceive it possible that any Government should make over to the Municipal Commissioners, or any Local Boards, the power to reduce the number of shops or increase them at their own sweet will, or to overrule, by any majority of two-thirds or one-half or whatever number they like, the final decision of the local officers. I do not understand myself how the district administration can go on if such a principle is allowed.

"Then I think we have had also some remarks from the Hon'ble Member to the effect that the number of shops are considerably in excess of the requirements. It seemed to me as I listened to what he was saying, that he was begging the whole question. What is the standard of requirements? Who has laid down any definite standard of requirements? Surely the most obvious standard is that there is a demand, and the demand requires the

supply of a certain number of shops. If those shops are not opened, the demand will not be met. That these shops are peculiarly successful is evidenced by the considerable competition shown for them when the licenses are sold, in every three years, and in the mufassal every year. Now the Hon'ble Member, I understand, says there are too many shops in Calcutta. Has he any idea how many shops there are? Has anybody in this room besides my Hon'ble friend, the Excise Commissioner, any idea how many shops there are in Calcutta, or how many there have been during the last ten years? I have before me a statement which shows that 14 years ago, in 1890, there were 135 shops, and in 1902, or 1903, there were allowed 137 shops, two of which were not opened. Therefore, within the last 14 years, the number of country liquor shops has not altered. Now with regard to the mufassal, I have before me another statement which shows that in 1881, which was just before the Excise Commission sat, which was presided over by the late Sir John Edgar, there were as many as 6,284 licenses for country spirit shops. Twenty years after that number had been reduced by 3,000, from 6,284 to 3,286. I do not know whether I am surprising the Council with these figures, but I think they are probably new to many of the Members.

"I will now turn to what we have heard about the increase of drunkenness. Are the Council aware of the number of shops in any of the big towns in the mufassal during the last few years? Here are some figures. In Burdwan, for the last 10 years, the number of country spirit shops has stood at 5; in Midnapore at 6, in Dacca at 8, in Gaya, which is a very thirsty country, at 18, and in Mymensingh at 8. In Chinsurah the number has been reduced from 12 to 5. In Patna it has been reduced from 32 to 30. Could Municipal Authorities or Local Boards have managed better or could they have done any better than that? What I do maintain, with regard to this question of reduction of shops or alterations of sites, is that the people have only got to make a reasonable representation to district officers, or to the Excise authorities in Calcutta, and they will receive all reasonable attention. But I entirely damur with the idea that the people in a matter of this sort should dictate to the Excise Authorities or any other authorities in this country. The Hon'ble Member referred to an agitation with regard to a shop at Talla. It was well-known that that agitation was brought about by a gentleman who was disappointed in getting a license. That is the kind of agitation which is to be met with throughout the country. When an applicant for a license is disappointed, he immediately stirs up a faction and thus the whole country may be divided into sides and there may be serious difficulties.

"The Hon'ble Member also referred to such smaller matters as the allegation that the back-doors of the liquor shops in certain parts of the town are open at all hours of the night, avowedly, I understood him to argue, for the contraband or improper sale of liquor. He may rest assured that under the orders of the Excise authorities the back-doors and the sides of shops have been closed up, and this fact is perfectly well-known to anybody who inquires about it.

"He also alluded to some figures brought before the Committee about the number of children seen buying liquor at some of the shops. Now, these statements have been examined. I forget the exact number of children, but the statistics were taken for 28 hours, spreading over 11 days, and it works out to this, that there was practically one child who attended each shop. What these children went there for, cannot be said. They might have gone there for a proper purpose or to take a message, but we cannot say. If our rule is enforced that no child is to be allowed to purchase liquor at any shop, there is no reason why the number of children, who visit these shops, should not disappear altogether.

"Then I think I heard the Hon'ble Member say that people wanted to know the law. That is a very good reason and it is the main reason why we are passing this Excise Bill into law, so as to make the law more easily knowable to anybody who wishes to ascertain it. But there is no difficulty now-a-days in the way of anybody who wants to know not only the law but the practice in the Excise Department, investing in the Excise Manual, of

two volumes, sold at the ridiculously small charge of Rs. 1-4. The point that I have to complain of is that temperance reformers, and people who with the very best intentions have addressed us, entirely fail to get up their subject before they trouble the Council, the Member in charge, and the Government, with their well-meant advice. What we try to do in the Excise Department, of which I am temporarily at the head, is to do what is practical; not to attempt anything that is theoretical, merely because it is put forward by some well-intentioned people as a good thing to be done.

"Not many months ago the Barmains' Act was passed in this room. The matter was made over to the Board of Revenue, and I have reason for believing that the orders passed by the Board of Revenue in cases under the Act—which were never before the Government I am willing to admit—have given satisfaction to the public.

"It has often been said that the Board of Revenue look to the revenue and do not care what else happens. There never was a more malicious statement. Ere now revenue has been sacrificed when it was seen that good would come from the sacrifice. What the Board of Revenue naturally object to is, adopting a series of suggestions of well-intentioned persons without being sure that some good would result. The theory of our Excise administration is to make all exciseable articles as dear as possible and by that means to keep down consumption, keep down drunkenness, and prevent the demoralisation of the people, by making it more difficult for them to get the exciseable articles which may do them harm.

"Now it may be said, what have we done in this direction? I have already mentioned how the number of country spirit shops has been reduced in 20 years from 6,284 to 3,286. I will also inform the Council that during the last period of years the liquor has been made more dear in all sadar distillery shops in a very great degree. The rate of duty has not been much raised, but we have another way of doing it, and that is by raising the license fees. Figures show that 20 years ago and more, in 1886-81, the incidence of the taxes from license fees on each gallon of sadar distillery liquor was Rs. 1-6 in those years. Last year the incidence of the revenue from license fees on each gallon of sadar distillery liquor was Rs. 2. The increase in 20 years has been from Rs. 1-6 per gallon to Rs. 2 per gallon. That has not been by any means an easy thing to attain. It has only been done by better administration, by the department insisting upon the license vendors paying greater fees for their shops, and so far, as the liquor is dearer, the system works automatically, keeping down the amount of consumption.

"And not only in regard to sadar distillery liquor has this successful policy been adopted, but also in regard to the ganja revenue which has increased enormously. I can go back to 40 years. Forty years ago the average revenue per maund of ganja was Rs. 106, now it is over Rs. 660. At the same time the consumption of ganja has been reduced from 8,500 maunds to under 4,700 maunds. That is a concrete instance of the way in which the Excise Department works by making exciseable articles dearer to keep down consumption.

But then, says the Hon'ble Member, the outstill system is in force, and the outstill system admits of the manufacture of liquor without any restriction. I think he quoted from the Minute of Dissent of the Hon'ble Members who have dissented from the Select Committee's Report. But however that may be, there are good points about the outstill system. The whole of Bengal is unsuited for the central distillery system. The difficulties which make it impossible to introduce the central distillery system are briefly as follows:—

- (1) the expense relatively to the amount of revenue to be collected;
- (2) impossibility of securing a trustworthy preventive establishment;
- (3) defective means of communication;
- (4) facilities for illicit distillation;
- (5) deterioration of liquor in transport, and
- (6) smuggling from foreign territory.

These difficulties are largely obviated when an outstill system is adopted. I will not quote its advantages to you at length, as I am afraid I have already taken too long on the indulgence of the Council, but they are distinctly set forth in that Despatch which I presume the Hon'ble Member has studied with the same care with which he always studies his briefs—the despatch of the Government of India to the Secretary of State, paragraph 83—in which the advantages of the outstill system are set forth. Nobody is enamoured of the outstill system. The outstill system has been adopted as an alternative system which cannot be avoided owing to the nature of the country. The outstill system has been adopted in Bengal because practically it is impossible to adopt the central distillery system throughout. There is one great and admitted defect in the outstill system and that is that we cannot tell the amount of consumption accurately. But having admitted so much, I will go on to say that the outturn of the outstills cannot be unlimited, because the capacity of the still itself is limited, so that practically not more than a certain amount can be brewed at any given outstill, and our Excise authorities are aware of all the facts and have their register with regard to every outstill, so that practically the outturn of these outstills is by no means unlimited. There is also this great advantage in the outstill system, that it is the best known preventive to keep down the illicit distillation which would otherwise overrun the whole country. We do not wish to have an army of Excise sub-inspectors and similar people, who are very much like the Police in other respects except that they have no police powers. We do not wish to harass the people in out-lying or other places. It is much better that a small local monopoly should be sold to the outstill-holder to be exercised over a limited area in which he himself has to act as a detective over illicit practices of his neighbours. That is how the outstill system works. If anybody can invent an outstill system better than the present one, so long as I am on the Board, he is quite welcome to propose it. Nobody has yet invented a better system and therefore we are compelled to use the existing one.

"I do not think that there are any other points which the Hon'ble Member has mentioned to which I need revert, nor need I recapitulate what I have said already at sufficient length. But I will repeat briefly that I regard his motion as quite unnecessary, as undesirable and not only as infructuous, but as likely to be harmful. Therefore I ask the Council to reject it."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, when I came into the Council Chamber this morning I had no intention of addressing my Hon'ble Colleagues upon the motion which stands in the name of the Hon'ble the Advocate-General, because I had no desire to interpose any feeble remarks of mine, which might in any way diminish the effect of the weighty and eloquent words of the Hon'ble the Advocate-General. But the debate has taken what is to me a somewhat unexpected turn, and I do not desire to record a silent vote upon this motion. I do not desire to conceal the fact that when I read the Report of the majority of the Select Committee, it was with feelings of pain and astonishment. This is strong language, but I use it deliberately, because these are precisely the words which accurately express my feelings.

"Representations have been received from men and women of unquestionable repute asking the Government to interfere for the prevention of drunkenness; and what is the answer which the Select Committee gives? The Hon'ble the Advocate-General has been good enough to read out paragraphs 8 and 4 of the Report, and I will read paragraphs 10 and 11. They are as follows:—

10. *Sale of excisable articles to children.*—Suggestions have been received from several quarters to the effect that a clause should be inserted in the Bill for prohibiting the sale of intoxicating liquors or drugs to children. We do not consider it expedient that any general prohibition of this kind should be inserted in the Bill. The Board of Revenue has power, however, under clause 42 (iii), to prescribe the insertion in licenses of conditions as to "the persons or classes of persons to whom a license may, or may not, sell excisable articles;" and we desire to recommend that the Board should consider the expediency of framing a rule, under this power, for prohibiting, whenever expedient, the sale of excisable articles to children under the age of 14.

11. *Sale of excisable articles to women.*—Suggestions have also been received for the prohibition of the sale of intoxicating liquor to women. This matter can, if necessary, be dealt with under clause 42 (iii) of the Bill, and sales to women are to some extent regulated by clause 71 also; and we do not consider it expedient to insert in the Bill any further provisions on this subject.

"I say, Sir, without hesitation that this is not good business: it is not good for the public, it is not creditable to the Government. I adhere to the opinion that the time has come when the Government should honestly face the problem which lies before it, and make an earnest endeavour not for the purpose of increasing the Excise-revenue, but for the purpose of preventing drunkenness. I say this without the slightest hesitation. Are we agreed as to the principles which are to regulate this measure? If so, let them be embodied in the Statute Book; and if they are not, let them be discussed in this Council. What are the principles for which the Hon'ble the Advocate-General has contended? He says, in the first place, that the principles of the policy of the Government of India enunciated in paragraphs 103 and 104 of the despatch of the 4th February, 1889, should be given effect to.

"The Hon'ble Member in charge asked us to read this Despatch with all the care that we read our briefs. I have done so, and let us see what the principles are: the principles are that the number and places at which intoxicating liquors and drugs are sold should be strictly limited to the circumstances of the locality, and that efforts should be made to ascertain local opinion and that a reasonable amount of deference should be paid to such opinion when ascertained. These are the principles that the Hon'ble the Advocate-General says should be embodied in the Statute Book.

"In answer the Hon'ble Member in charge of the Bill says that the doctrine of local option is condemned in paragraph 98 of the despatch of the Government of India, and ought not to be put into the Statute Book. That answer is, I submit, wholly irrelevant. The Hon'ble Member in charge of the Bill has created a fiction of his own and has completely destroyed it. If the Hon'ble the Advocate-General had suggested that we should in any way contravene the principles laid down in paragraph 98 of the Despatch, the question might have been raised whether it was wise for us to do so. But he has not done anything of the kind. Practically the whole difference between the Hon'ble the Advocate-General and the Government lies in this: the Hon'ble the Advocate-General says that these are the principles which the Government of India accepted 14 years ago, and demands that they should be put into the Statute Book. The Government says: 'No; let them lie buried in the Gazette of India of the 1st March, 1890.'

"I venture to point out that what has taken place in this Council proves conclusively the necessity of incorporating these principles in the Statute Book; unless they find a place in it, they are a little liable to be misunderstood; on the other hand, if they receive legislative sanction, they become clearly formulated, easily ascertainable, and little liable to capricious alteration. It is no reflection on the Members of the Board of Revenue to be told that the Legislature desires to place in the Act the principles which ought to underlie the rules which are to be framed by them. If a suggestion like this had been made in England, that the principles which ought to regulate the sale of liquor in England should be left to be determined by the Commissioners of Inland Revenue or by the Licensing Justices in England, it would be met with deserved ridicule; but in this country, the suggestion is not only seriously made, but even defended in Council. I submit that this principle should be put into the Statute Book as well as the principle that intoxicating liquors and drugs should not be sold to women and children under the age of 14.

"I do not know whether the Hon'ble Member is aware that so late as 1901 an English Statute was passed which provides for the restriction, or rather the prevention, of the sale of intoxicating liquors to children. Perhaps it may be said that if the British Parliament passed such a law in 1901, why should we not wait

for another ten years; but if we look at the history of the matter, we shall find that it was provided for in 1872 and again in 1896 when the Parliament enacted Statutes for the purpose of regulating the sale of intoxicating liquors to children. The first of these Statutes fixed the age at 16 and the second limits the age at 14. Both these provisions apply not to sales, but to consumption on the premises only. The present enactment fixes the age at 14, and applies to sales of intoxicating liquors, whether consumed on the premises or elsewhere. It also creates a double offence; for whereas under the earlier Statutes, the licensee-holder was only liable, now the person who sells is also liable to conviction and is subject to like penalties. I would like to know, Sir, why children in England should be protected, and why our children should be left free to be ensnared and entrapped.

"Then, so far as women are concerned, my Hon'ble friend went on to say sententiously that you have here among you women who must be allowed to purchase liquor, and that this must be tolerated. This is an unfortunate doctrine. When people are clamouring for prevention of drunkenness, the answer given is—'Some of you are so bad that you ought to be left alone, and not only that, but that you ought to be encouraged in the drunkenness which you pursue.' Is this a doctrine, Sir, which ought to be seriously advanced anywhere, least of all in this Council?

"The third principle for which the Hon'ble the Advocate-General has contended is, that adequate provision should be made in the Act so as to prevent as much as possible the spread of drunkenness in Bengal. The answer of the Hon'ble Member in charge of the Bill is, that the Statute Book is not the best receptacle for moral provisions. Who said it was? Has my Hon'ble friend heard that so late as 1902 the British Parliament passed an Act which is known as the Licensing Act of 1902, the avowed object of which is to prevent drunkenness? If anybody will take the trouble to go through the provisions of this Act of 1902, he will find that it would be desirable to have provisions in our Act on similar lines. I should like to know why a serious effort should not be made in this behalf. I therefore support the motion of the Hon'ble the Advocate-General, and I say without hesitation, that it is necessary and desirable to send the matter back to the Select Committee, and I hope it will lead to excellent results."

The Hon'ble BABU BHUPENDRA NATH BASU said:— "I rise to support the motion of my Hon'ble friend the Advocate-General. I must say that I was surprised at finding that the motion was opposed in this Council, and the reason of my surprise is this, that when we began our labours in the Select Committee, in which I had the honour of sitting, on the first day, we discussed informally the question of principles raised in the various petitions sent in to the Government. It was thought that that discussion would take a long time, and that it would be better if the details of the Bill were first disposed of and when all these details were disposed of, we should consider the questions of principle, the foremost questions of principle being the subjects of local option and local veto, and the subjects connected with them. My Hon'ble friend, Maulvi Seraj-ul-Islam, Khan Bahadur, and myself agreed to that suggestion as tending to expedite the business of the Select Committee.

"We sat, I believe, for about four days and discussed the technical portions of the Bill and other small and minor matters. When these were disposed of, we asked that the questions of principle should then be considered. I, for one, as a Member of the Select Committee, was prepared to submit certain proposals which would not be so revolutionary as the Hon'ble Member in charge of the Bill seems to think. But he said that these were proposals which had already been vetoed by the Government of India, and that it would be an useless waste of time to consider them in the Select Committee, and that if we had any resolutions to move on the subject, we had better do so in the Council, and that it would be an useless waste of our time in the Select Committee. It may seem to my Hon'ble friend a mere waste of time to devote our energies to this question, but I venture to submit that our time has also its value, which to us relatively is very great, and that we devote our attention to

these matters not for the purpose of mere agitation, but because we owe it to ourselves and because we feel that there is a duty cast upon us, and we should be wanting in our sense of duty if we did not try to discharge it to the best of our ability.

"I submit that the question as to how and to what extent the opinion of the public may be taken and given effect to with regard to opening shops was not considered by the Select Committee. I had the honour of having sent in several amendments upon that question. I venture to submit that it would be inexpedient and inconvenient that these matters of detail should be discussed in this Council. On that ground, Sir, I would ask this Council to refer the matter back to the Select Committee for further consideration.

"When we tried to raise the question of principle in the Select Committee, we were told that the Bill was simply to consolidate the existing legislation on the Excise system in Bengal, and that it would be no part of our duty to consider the question of principle or policy apart from what was already in force. This is another matter which has not been sufficiently considered in the Select Committee. Several important matters, which have practically been conceded, have not been incorporated in the Bill, but have been left to be dealt with by rules to be framed by the Board of Revenue. I for one take a strong objection to the Board of Revenue being invested with almost absolute powers with regard to the making of rules on the subject of the Excise Administration of this Province. There is no doubt that the Board of Revenue is an excellent institution, but the proceedings of the Board of Revenue have not got that amount of publicity which it is desirable that they should have.

"We insisted upon, or tried to insist upon, the provisions to restrict the sale of liquor to women and children being inserted in the law itself, because the law would be easily accessible to the public who would be able to know what the provisions of the law were, because they would be incorporated in the law itself. The Select Committee was practically unanimous in recommending to the Board the prohibition of the sale of liquor to children under 14, but the Hon'ble Member in charge wished this provision to be inserted as a rule of the Board in the Excise Manual, which, we were told, was a very inexpensive publication, and that the public might get it for a nominal price. But the Hon'ble Member in charge of the Bill forgets that many people outside the Board of Revenue did not know of the existence of the Excise Manual, and that the people in the mufassal interested in the drink question know nothing about the publication, or that it can be easily obtained at a small price at the Printing Office of the Government of Bengal, whereas if this was put into the Bill itself, it would be easily and readily accessible to the public.

"But apart from these matters, on the question of principle that has been raised to-day I wish to say one or two words. My Hon'ble friend the Advocate-General is in error when he says that the outstill system does not prevail in Bengal proper. If he will refer to the excellent map annexed to the Report of the Excise Department, he will find that the outstill system prevails in a large part of Bengal proper. There has been no attempt on the part of the Board of Revenue to determine the quantity of liquor that these outstills turn out. In vain it is that one would look for it in the Reports of Administration of the Excise Department year after year for any indication as to the quantity of gallons of outstill liquor manufactured and consumed. There is nothing anywhere to give any indication of this; at the same time the enormous growth of revenue tends to show that there must be a very large consumption of outstill liquor produced.

"As regards the sale to children, it was thought that there might be cases in which it would be desirable that liquor should be sold to children. The Hon'ble Mr. Hare said that when a labourer working in the field felt disposed to drink and he could not spare the time to go himself to the liquor shop, he might send a little boy to fetch the liquor for him and it would be hard to the labourer to deny him this privilege. Fortunately, our agriculturists are not in that state that they want liquor when they are working in

the field. But even if that was so, the agriculturist labourer should not be allowed to send a little child to the liquor shop to fetch liquor for him.

"It has been said that we are not prepared to legislate for the moral improvement of the people. I join issue with my Hon'ble friend who made this statement. The Government of this country has frequently legislated for the moral welfare of the people. It is now many years since that the *suttee* was abolished: some of our countrymen at that time protested. But the Government made a firm stand and said: 'If we have abolished the *suttee*, we have done so in the cause of humanity.' To remove drunkenness would also be in the cause of humanity. In abolishing the *suttee* the Government said that they were not prepared to countenance the murder of women in the name of religion. I for one think it is no less the duty of the Government to sit idly and see a large number of its subjects actually die a moral and physical death from drunkenness.

"My friend, the Hon'ble Member in charge of the Bill, has said that we are agitators and faddists, and that we forget that the prices of the excisable articles have increased considerably since 40 years ago, and that the *ganja* has risen sixfold in value. I may take the liberty to inform him that rice which is looked upon as a necessity for life in this Province and is the staple food, has also risen sixfold in value since 40 years ago. The purchasing power of the people may have increased and many things may have led to the rise in value. Is the Hon'ble Member prepared to say that the consumption has decreased or that the revenue has decreased from the amount which stood 40 years ago?

"I have taken some trouble in collecting the figures regarding the revenue on the principal excisable articles, and they are as follows:—

	1883-84.		1893-94.		1902-03.	
	Quantity.	Fees and duty.	Quantity.	Fees and duty.	Quantity.	Fees and duty.
	Gallons.	Rs.	Gallons.	Rs.	Gallons.	Rs.
Country spirits ...	355,279	13,74,755	416,857	24,45,174	652,009	31,53,138
Outstill liquor	38,47,976	.....	28,07,724	.....	35,68,689
Tari	6,63,693	.....	8,73,863	.....	10,50,229
Pachwai	1,83,054	.....	2,71,763	.....	5,40,769
Ganja	19,73,713	.....	23,19,971	.....	32,62,160
Opium	19,05,481	.....	20,33,784	.....	26,52,154

The total revenue from all sources stood at Rs. 1,01,23,171 in 1883-84. It rose to Rs. 1,21,00,000 in 1893-94, and in 1902-1903, it was Rs. 1,57,87,729.

"In the figures that I and my Hon'ble friend, Maulvi Seraj-ul-Islam, Khan Bahadur, put in our Note of Dissent, I am told that some errors crept into the accounts that we gave for the outstills. We took these figures from the Excise Administration Reports which are not very clear in many places, because the forms are changed from time to time and it is possible that there may be some error in the figures that are there, but I have taken particular care in regard to the figures which I have just given to the Council. I have tried to verify them, and I venture to believe that they are correct.

"I am aware that any outside control in the administration is not to the liking of many of our rulers, and that local opinion and local bodies do not find favour. They are all right when they support the authorities, but are interested, artificial and manufactured to orders when they venture to disagree, and I can understand the natural desire of those concerned in the Excise administration of the Province not to submit to local opinion. But the suggestions I was prepared to put forward in the Select Committee and which I shall bring forward in this Council when the occasion may arise, are so moderate that some of them I am sure will be unobjectionable.

"The Hon'ble Member has told us that all that we want is to be found in a rule in the Excise Manual. I will ask him, does he mean to refer to that rule in all seriousness in answer to our objections? Our objections

apply not only to new sites, but also to existing sites. Many years ago the Excise Commission made certain recommendations, and following that Commission, the Government of Bengal and the Government of India have laid down in plain, definite and distinct terms that the liquor shops should not be allowed in certain places. If any one of the Hon'ble Members will condescend to go with me to the northern part of the town, I will show them that shops exist in sites which have been condemned by the Excise Commission, but the Board of Revenue have done nothing. It only calls for local opinion when a new site has to be sanctioned. But we go further, and say that many old sites are objectionable, and what has the Board of Revenue done for them? They say that they have got rules dealing with the subject.

"Let us see what the rule is for Calcutta. It is quoted in the Report of the Select Committee, and it refers to new sites; the rule provides that a reference is to be made to the Commissioner of Police. The rule was evidently framed for Police purposes, but the Hon'ble Member in charge of the Bill says that when that rule was framed, the Commissioner of Police and the Chairman of the Corporation were one and the same individual. It is many years ago since these two offices were separated, and what has the Board done since then? They sit in a house which is one of the oldest and darkest in Calcutta, and they frame their rules in darkness, and no body knows what they do. I challenge the Hon'ble Member to show anywhere in the Excise Manual any provision for consulting any one in Calcutta.

"With regard to an old site. This is the premier city in India and the second city in the British Empire, but local opinion here is not consulted even on the opening of a new shop. You have a show of consulting local opinion when you are opening new shops in the mufassal, but I say it is only a show, because the final decision rests with the local officers, the Superintendent of Excise, and ultimately with the Board of Revenue. But even that show is wanting here in Calcutta. The matter is referred to the Commissioner of Police. Does anybody in this Council by any stretch of imagination contend that the Commissioner of Police represents the public? But though the public is not consulted, a notice intimating the opening of a new shop is hung up on the notice-board of the local thana and the Hon'ble Member in charge of the Bill expects people to go to the thana to see what notices are hung up there. I think we ought to know that respectable people in Calcutta and elsewhere try to avoid the thana as much as possible, and even when they do go to the thana when misfortune takes them there, would they be in a position or frame of mind to see what notice was hung up on the notice-board?

"But what about the old sites? As I have said already, in the mufassal the Municipal Commissioners are referred to, but in the departmentalized Corporation of Calcutta they are not deemed worthy of such a reference. The Excise Commission recommended that liquor shops should not be allowed near bazars and schools. If any of the high authorities in the Excise Department would accept my offer and would not think it derogatory to accompany me, I can show them shops near bazars and market-places, and just near schools and places of worship, and in the very heart of broad thoroughfares, I shall show them what goes on in these shops. And I can assure them that they will not find it an edifying spectacle. Liquor is sold at all hours of the night, and people know that they can always obtain it. What has the Board of Revenue been doing all these years? Did not complaints come to their notice? What were the actual steps that they took to repress such a state of things? Therefore I do not think that the Board of Revenue can blame us if we decline to surrender ourselves absolutely to their judgment. As I said in the Select Committee, the Board of Revenue are a board of revenue and are not a board of morals. They might have charge over minors and lunatics and people of weak mind; but I do not think there is any law which empowers them to have charge of the morals of the public.

"I submit that it will be inconvenient to discuss in this Council any detail of the various proposals that we, as representatives of a small section of the public it may be, have to bring forward with regard to the opening of shops in their midst. We venture to hope that if these proposals are considered in a reasonable spirit and not with a bias against them from the beginning, many of them may be adopted; but it would be inconvenient to consider them in this Council. This is probably the only occasion which will arrive for the next 20 years to come for considering these proposals. It is also possible that between those who have at heart the interests of the Excise-revenue and those who wish to see the revenue controlled in the interests of the public morals and public welfare, there may be some compromise effected, and in that view I hope Your Honour's Council will adopt the motion."

The Hon'ble the PRESIDENT said:—"I think it may be more convenient if I intervene at this stage of the discussion with a view to express the position which I feel myself inclined to take up in this matter. I should have been right at any moment to have intervened in the sense which I now propose to do, if the matters which have been brought before us by the Hon'ble Member who has just sat down had been brought before us either in the Note of Dissent or at an early stage in this discussion. It seems to me that there has been misapprehension on both sides. There are certain points in respect of which I do not at all feel prepared to go forward to legislation at the present moment. But there are other points in respect of which I am very far from feeling that we ought not to consider carefully the necessity for so doing.

"First of all in respect of local option, I should like to say this, that I do not believe, as at present advised, that we can have what is ordinarily known as local option, pure and simple, any way. But, in the second place, I should like to say that, while agreeing in that respect with what fell from my Hon'ble friend, Mr. Buckland, I differ from him in this, that I do not understand that to be the proposal made by the learned Advocate-General. Now this explains to a certain extent the position in which we find ourselves. There has undoubtedly been very great vagueness of expression.

"We hear now from the Hon'ble Member who has just sat down that he has definite and clear and precise proposals to make. We have not heard these proposals. They have not been brought before us either in the Select Committee's Report or in the Note of Dissent. We do not know really what they are. But I do think that there are questions which the discussion has brought forward before us to-day—questions to be met and discussed—and that in regard to them we ought to have these clear and definite proposals. If it was stated in the Select Committee, as has been alleged by the Hon'ble Member, that we ought not to consider these questions because the Government of India had prohibited their consideration, then I am bound to say that there has been a certain amount of misunderstanding. The Government of India have not prohibited their consideration. The Government of India asked that, if we proposed to go on with legislation in respect of any of these points, we should consult them first. That is all. Now the question remains entirely this: Are we prepared to undergo the necessary trouble and the necessary delay that that course involves? I say, without hesitation, we are quite prepared. We have no hesitation whatever in agreeing to delay this Bill for a week or two, or a month or two, or even for a longer period, if we are going to have the whole thing thoroughly threshed out, and have any hope of passing, as I trust, a thoroughly complete and satisfactory Bill. I do not wish in any way to burke discussion or avoid any necessary delay.

"Now there are one or two things which I should like to say before asking the Hon'ble Mr. Buckland to consider the proposal to accept the motion of the Hon'ble the Advocate-General. There is one point I wish to state emphatically, and that is this: I have no sympathy whatsoever with the denunciation of the Board of Revenue or the action of Government in respect of Excise. I am new to the province, but at the same time I have been carefully looking up the past history of Excise in this province; and I can

give this assurance that, after seeing the history of Excise in several other provinces, I feel that the Government of this province has in the past nothing whatever to be ashamed of in the care that it has given to the study of this question and the very important improvements it has introduced. I am not at this moment inclined to enter upon a defence of the Government policy in respect of Excise; but I desire to dissociate myself altogether from the criticism which has been passed upon the Government policy and the Board of Revenue in regard to the rules which have been framed.

"The second point is this. I am astonished to find that Hon'ble Members like the learned Advocate-General and my Hon'ble friend, Dr. Asutosh Mukhopadhyaya, should declare not in so many words, but in regard to the manner in which they have advanced their view, that there is nothing whatsoever in a rule which has the force of law. Why, says my Hon'ble friend opposite, should the children of England be protected from the grog-shop, and why should the children of this country be entrapped? Yet he is speaking of a report which suggests that there should be a rule having the force of law to prevent this. I dissociate myself from his view of the Select Committee's Report, and from his estimate of rules under the Act. At the same time, I do agree with this, that rules are not the best form of legislation where they can be avoided. We ought to lay down in the law such principles as it is possible to lay down, and if we have made up our minds that a thing is to be forbidden, we should ourselves incorporate the prohibition under the Act and not ask any other authority to include it in a rule.

"With regard to the sale of liquor to children under a certain age in grog-shops, if it is the mind of this Council, without any hesitation or doubt, that children ought not to be served with liquor, then let us say so in the Act. If, on the other hand, there is any question of doubt as to whether there are any places in this country where it would not be expedient to prohibit the sale of liquor to women, then let us say that this is a question of doubt, and that the Board of Revenue after due inquiry ought to dispose of it.

"Now, what are the points that arise between the learned Advocate-General and the Hon'ble Member in charge of the Bill. There are three things which are dissented from by two Members of the Select Committee. The first is with regard to local option, not local option as usually understood, but merely the ascertaining of local popular feeling and sentiment. This is a question upon which we are told that we are going to have definite proposals, which, if approved in Select Committee, will come up in the next report, and, if disapproved, will come up in a definite form and clearly stated in the memorandum of dissent; and we shall then be able to deal with them in a satisfactory manner.

"The next point is with regard to the sale of liquor to women and children under the age of 14. Both points were touched upon by the Advocate-General. We have our Hon'ble Colleague's proposals on these points; and we can deal with them. Then we have the rest of the Advocate-General's motion. It is an extremely vague motion, viz., first, that the principles laid down by the Government of India to be adopted according to local circumstances by Local Governments in a manner which they might see fit should be included in the legislation, and, secondly, that we should make some provision to prevent the spread of drunkenness in Bengal. There is a great deal of vagueness about this; and we do not know exactly what is proposed. If it be said for a moment that there is nothing in this Act to prevent the spread of drunkenness, then such a statement is unjust. The Advocate-General, however, may like the Hon'ble Member who has just spoken have definite proposals to make; if so, let him by all means make such proposals. For this reason it seems to me necessary not to go on with this matter, so that he may draft these proposals and the matter may be thoroughly considered.

"What I desire to say is this, we have no desire to rush this legislation through. We do not care even if it takes a long time, because it will last a long time. We feel that we ought not to hurry through this legislation, because it is

going to influence the country for a long time to come. If this Council, after hearing the Report of the Select Committee, wants any reference to be made to the Government of India, I will have no hesitation in making it. I do not want to hurry this through, but I do want to have it thoroughly considered.

"I therefore propose to the Hon'ble Member in charge of the Bill that we should accept this motion and refer these questions to the Select Committee and, for my own part, I should be very glad if the learned Advocate-General be also added to the Select Committee."

The Hon'ble Mr. WOODROFFE said:—"I do not propose to take up the time of the Council after the address of the President, but I desire to say in concurrence with the observations which have fallen from Your Honour that there did appear to me to be a good deal of misunderstanding. The Hon'ble Member in charge of the Bill employed himself for well nigh 45 minutes in answering a speech which was never delivered. I never suggested for a single moment local option in the sense in which it was held to be impracticable by the Government of India.

"As regards what has fallen from the Chair with reference to the matter of vagueness in respect of the first portion of my motion, I beg to point out that the matters which I referred to have been sufficiently indicated and sufficiently stated in the Government Despatch, viz., that a strict limitation should be imposed as to the number of places at which liquors or drugs can be purchased, and also that efforts should be made to ascertain the existence of local opinion and local public sentiment, and that a reasonable amount of deference should be paid to such opinion when ascertained; and also that where municipalities exist Municipal Commissioners should be consulted in determining the location of shops. I regret that I fell into error in supposing that the outstill system was not so prevalent as I supposed it was. It appears that it exists more widely than I thought, and if so, it furnishes a crucial argument for putting this matter into the law, because I find that the Government of India four years ago expressed themselves in favour of this principle, and I think that steps should be taken to give it more direct effect.

"If it is the opinion of the Council that I should be added to the Select Committee, I shall be very willing to serve on it."

The motion was then put and agreed to.

The Hon'ble Mr. GREER moved that the Hon'ble Mr. Woodroffe be added to the Select Committee on the said Bill.

The motion was put and agreed to.

The Council was then adjourned to a date to be specified hereafter.

CALCUTTA;
The 22nd March, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council.



The Calcutta Gazette.

WEDNESDAY, MARCH 30, 1904.

PART IVA.

Proceedings of the Bengal Legislative Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Saturday, the 26th March, 1904.

Present :

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. L. HART, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. D. B. HORN.

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. T. K. GHOSE.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble DR. ASUTOSHI MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.F.

The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.

The Hon'ble MR. C. F. LARMOUR.

NEW MEMBER.

QUESTIONS AND ANSWERS.

SUB-INSPECTORS OF SCHOOLS.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

1. Has the attention of the Government been drawn to an article in the *Sanyibani* of the 17th December last on the matter of the grievances of Sub-Inspectors of Schools?

2. Would the Government be pleased to inquire and state—

(a) how far its wishes as conveyed in its letters No. 2949 L.S.-G., dated the 24th July, 1895, and No. 516 T.G., dated the 30th June, 1897, have been given effect to in the matter of the recruitment of Deputy Inspectors from among the Sub-Inspectors lent to the District Boards and in the promotion of the Board-appointed Sub-Inspectors to the subordinate service grades;

(b) what is the number of teachers, clerks, and Sub-Inspectors who have been permanently appointed as Deputy Inspectors since the 30th June, 1897?

3. Would the Government be pleased to state—

(a) whether there is any Government order to the effect that Sub-Inspectors of Schools, though belonging to the same graded system and the same service as the clerks and teachers, should not rise above the grade of Rs. 100 a month, even when their qualifications are not inferior to those of the latter who are allowed unimpeded promotion up to the grade of Rs. 250;

(b) whether the stoppage of Sub-Inspectors at the grade of Rs. 100 till they retire has not had the effect of blocking the promotion of the whole body of Sub-Inspectors who have been lent to or appointed by the District Boards;

(c) whether, considering the fact that the majority of the Board-appointed Sub-Inspectors are graduates and a very large number of them are Muhammadans, the recruitment of Deputy Inspectors should not be principally confined first to the "seconded" Sub-Inspectors serving under District Boards and then to those appointed by the Boards?

4. Is the Government aware that in the scheme that has been submitted to Government for the re-organisation of the Subordinate Educational Service, the Director of Public Instruction has excluded the seconded Sub-Inspectors, although they were not so excluded from the last re-organisation sanctioned in Government Resolution No. 1281, dated the 30th March, 1897? As the seconded Sub-Inspectors are to all intents and purposes Government servants, does the Government consider it fair to exclude them altogether from the proposed re-organisation?

5. Is it in the contemplation of Government to take over all the Sub-Inspectors now serving under the District Boards into Government service? If so, has any action been taken in the matter?

The Hon'ble MR. EARLE replied :—

1. The attention of the Director of Public Instruction was drawn to the article in the newspaper referred to, and the points therein noticed have been considered by him.

2. (a) The orders of Government alluded to in this question have been strictly complied with. Government decided, in its letter No. 516 T.—G., dated the 24th July, 1897, that of the 119 Sub-Inspectors who had been transferred from Government service to the service of the District Boards, the names of the 25 most deserving should be printed in Roman type in the list of the Subordinate Educational Service, 10 being placed in Class V on Rs. 100, 10—

in Class VI on Rs. 75, and 5 in Class VII on Rs. 60. The names of the remaining 94 officers were, in accordance with the orders quoted, printed in italics, such officers being regarded as seconded from the Department. When a vacancy occurs among the 35 officers whose names are printed in Roman type, one of the seconded officers takes his place. In this way, no Board-appointed Sub-Inspector can enter the graded list, until all the seconded officers have been provided for. The 25 officers in the graded list are eligible for promotion to the grade of Deputy Inspector; and 14 of them have been so promoted since 1897.

(b) Since 1897, 46 men have been promoted to be Deputy Inspectors or Additional Deputy Inspectors. Nine posts of Additional Deputy Inspector were created in districts in which the number of schools under inspection was excessive. Muhammadans were appointed to these posts, in order that the Muhammadan community might be better represented in the Inspecting Agency than it had been in the past. Inasmuch as there were very few Muhammadans serving as Sub-Inspectors at the time, only one post was filled by a Sub-Inspector, the remaining eight posts being awarded to teachers. Of the 37 men who have been promoted to ordinary posts of Deputy Inspector, 19 were teachers, 4 were clerks, and 14 were Sub-Inspectors. As, however, the 4 clerks referred to had acted previously for some years as Sub-Inspectors, practically 19 teachers and 18 Sub-Inspectors have been so appointed. The number of teachers in the service is, it may be explained, at least four times as large as that of Sub-Inspectors; and there are, therefore, many more graduates among them from whom a selection for posts of Deputy-Inspector can be made. Experience in teaching is, moreover, a very valuable qualification for such posts.

3. (a) & (b) According to the orders passed at the time of the re-organisation of 1897, the maximum pay of a Sub-Inspector is fixed at Rs. 100 a month. Capable Sub-Inspectors are, however, eligible for promotion to Deputy Inspectorships; and, as indicated in answer to question 2 (b), 14 Sub-Inspectors from the graded service have been promoted to Deputy Inspectorships since the year referred to. Some Sub-Inspectors, also, have been promoted to posts carrying higher salaries, such as clerkships in the offices of the Inspector of Schools and the Director of Public Instruction, and to teacherships in schools.

(c) The meaning of this question is not quite clear. The principles and orders governing the selection of Deputy Inspectors have, however, been fully stated in reply to questions 2 (a) and (b).

4. The position of the transferred Sub-Inspectors is fully explained in reply to questions 2 (a) and (b). The main object of the proposals for the re-organisation of the Subordinate Educational Service which have recently been submitted to the Government of India is to include in the graded service a large number of ungraded officers—many of them graduates—who are at present in receipt of very small salaries, and who have little chance of promotion in present circumstances. It was not considered necessary to include in the scheme any proposal for the improvement of the prospects of the transferred officers.

5. There is no proposal that Government should take over all the Sub-Inspectors now serving under the District Boards into Government service. There are, however, proposals under consideration for improving the prospects of Board-appointed Sub-Inspectors. As, however, the question has not as yet been laid before District Boards for consideration, it is not desirable to give further information on the subject at present.

THE SUBORDINATE EDUCATIONAL SERVICE

The Hon'ble BHUPENDRA NATH BASU asked :—

1. Has the attention of the Government been drawn to the *Sanjivan* of the 14th January last in which, from the grade promotions of officers of the Subordinate Educational Service, published in the Calcutta Gazette of the 16th December last, it has been shown that clerks and teachers have obtained promotion from one grade to another after an interval of $2\frac{1}{2}$ to 4 years, while Sub-Inspectors of Schools serving in the same grade for 4 to 8 years or more have not obtained any promotion?

2. In order to remove the present block in the promotion of the whole class of Sub-Inspectors under the District Boards, whether lent to them or appointed by them, will the Government be pleased to consider the advisability of promoting Sub-Inspectors who have served for an unusually long period in the grade of Rs. 100, and who may not be appointed as Deputy Inspectors in the higher grades along with other officers of the Education Department?

The Hon'ble Mr. EARLE replied:—

"This question raises the same points as have already been dealt with in the replies to the last question and no separate answer to it is required."

VERNACULAR EDUCATION.

The Hon'ble BHUPENDRA NATH BASU asked:—

1. Has the attention of the Government been drawn to the articles published in the *Sanjibani* of the 13th and 27th August last on the introduction of the new scheme of vernacular education into all classes of schools in the province?

2. Would the Government be pleased to institute an inquiry into the evils pointed out in those articles consequent on the sudden and precipitate introduction of the new scheme of education by an independent agency and publish the results of the inquiry?

3. Does not the Government feel the necessity of postponing the introduction of the new scheme until after there has been a sufficient staff of teachers trained to teach it?

4. Although it is very desirable that in the lower forms of High English schools subjects other than the English language, such as Arithmetic, History and Geography, should be taught in the vernacular, but as the aim and scope of a High English school are quite different from that of a Middle English school, and having regard to the fact that the Universities Commission has found that the large percentage of failures in the University Examinations is due to deficient knowledge of English, would the Government be pleased to re-consider its decision in respect of High English schools being compelled to adopt the Middle English course in its entirety up to the fifth class?

The Hon'ble Mr. EARLE replied:—

1. The attention of Government has been drawn to the articles in the newspaper referred to. The whole subject of the introduction of the new scheme of Vernacular Education was fully discussed in Government Resolution No. 1 of the 1st January, 1901, which was published in the Calcutta Gazette of the 2nd idem. A reference to that Resolution will show that the scheme in question is compulsory only in the case of Government and aided schools; and that the position as regards unaided schools is that, if they wish to compete for scholarships, they must conform to the rules in force in respect of Government and aided schools.

2. In the Resolution referred to, the difficulties connected with the introduction of the new scheme were exhaustively considered, and the best means of overcoming the same were fully discussed. Action has since been taken, and is still being taken, with the object of facilitating the introduction of the scheme; and no useful purpose would, in the Lieutenant-Governor's opinion, be served by instituting an inquiry such as that suggested by the Hon'ble Member.

3. A perusal of paragraph 10 of the Resolution above quoted will shew that the difficulties in connection with the training of teachers was fully considered before orders were passed approving of the introduction of the scheme. It was not expected, it was said, that teachers would, all at once, teach the new subjects well: it was almost certain that they would teach them badly. What was contended, however, was that the teaching would not be worse than the then existing entirely mechanical system of training the memory, whereby all the other faculties were dulled at the expense of monotonous parrot-like exercises. It was urged that even inferior teaching with a good educational system would produce better results than bad teaching with an unsound system. Hence, the change was considered necessary, notwithstanding the grave difficulties which would have to be faced.

Immediately after the issue of the Resolution referred to, arrangements were made at the various training schools of the province with the object of imparting instruction in the new methods; the result being that about 250 trained teachers are now being turned out annually. Facilities have also been given to teachers who were trained according to the old methods to qualify themselves in the additional subjects introduced under the new scheme. Training schools for primary school teachers have been opened at most of the sub-divisional head-quarters under trained masters. English teachers have been trained in batches at the Kurseong Training College; and their knowledge in the modern methods is being utilised in various ways. Inspecting officers are being trained in the new subjects in the training schools. Lastly, frequent conferences of teachers and inspecting officers are being held for the purpose of advancing the new system.

In the circumstances, His Honour does not consider it desirable to postpone the introduction of the scheme, as suggested by the Hon'ble Member.

4. A reference to paragraph 12 of the Resolution above referred to will show very clearly that the case of private high schools was carefully considered by Government, and that the privilege of sending up candidates for middle and upper primary scholarships was for the first time conceded to them, with the special object of encouraging them to substitute Vernacular for English text-books in the lower classes. In the same paragraph the evil results of teaching subjects such as Arithmetic, History and Geography through the medium of English, instead of the Vernacular, in the lower classes of these schools, were discussed, and the system then in force was pronounced to be "perfectly disastrous to the sound education of the pupils in the English which their parents want them to acquire." It may also be noticed that the Government of India, in paragraph 26 of the Education Resolution of the 14th March, 1904, have held that the line of division between the use of the Vernacular and of English as a medium of instruction should, broadly speaking, be drawn at a minimum age of 13. In the circumstances, His Honour sees no reason for modifying the orders already passed on this subject.

GURU TRAINING SCHOOLS

The Hon'ble BHUP NDRA NATH BASU asked:—

1. Has the attention of the Government been drawn to a paragraph in the *Sanjibani* of the 3rd December last on the subject of guru-training schools and another in the *Sanjibani* of the 19th idem on the same subject?

2. Would the Government be pleased to inquire and state—

(a) how many of the 79 guru-training schools have already got head Pandits trained in the new scheme of vernacular education from first-grade training schools?

(b) how many gurus attend the guru-training schools having such trained head Pandits, and how many those which have no such Pandits?

3. Is the Government aware that owing to the want of duly-qualified head Pandits, who ought to be ex-students of first-grade training schools under the new scheme, and the impossibility of getting suitable men on a monthly pay of Rs. 9, besides the schooling fees, the Director of Public Instruction has issued orders that second-year students of the old normal schools or men similarly qualified might be appointed head Pandits of guru-training schools? Would not such arrangements frustrate the real aim of such schools?

4. If a guru has to undergo training for two years in a guru training school, he must have to take leave of his *patshala* for the period. Does Government think that a stipend of Rs. 3 only a month would suffice for his own living and the maintenance of his family during his stay in the guru-training school?

The Hon'ble MR. EARLE replied:—

1. The articles in question have been brought to the notice of Government.

2. (a) The number of Guru Training Schools already opened is 100, and not 79, as stated. Of these 100 schools, 91 have been supplied with head

Pandits. Information is not immediately available as to the exact number of head Pandits who have come from first grade training schools.

(b) The number of gurus under training in schools under the 91 head Pandits is 550; while the number of such persons under training in the 9 schools as yet unprovided with head Pandits is 44.

3. The instructions issued by the Director of Public Instruction are to the effect that the head Pandit of a Guru Training School must, if possible, be a person who has passed the final examination of a first grade training school, that is to say, a person who has passed the 2nd year examination of the new training school course, or the 3rd year examination of the old course. In case no candidate satisfying either of the above conditions is available, a 2nd year pass man of the old course may be appointed, provided that he produces a certificate from the Head Master of a first Grade Training School that he is well grounded in object lessons and Kindergarten principles, and is able to train gurus in those subjects. The pay of the head Pandits having been recently raised from Rs. 9 to Rs. 12 generally, there should be no difficulty in giving effect to these orders; and it is probable that it will soon be possible to dispense with the services of any 2nd year pass men of the old course who may have been appointed.

4. The subject of the amount of the stipend which should be given to a guru during the period of his training is being separately considered. If funds are forthcoming, an endeavour will be made to increase the amount fixed under present orders in cases in which it appears to be inadequate.

MR. GARRETT'S CIRCULAR.

The Hon'ble BABU BHUPENDRA NATH BASU asked:—

1. Has the attention of the Government been called to a circular letter purporting to be issued by the Magistrate and Collector of a district in Eastern Bengal, which has appeared in the *Asian Sporting Newspaper* of the 13th February, 1904, and calling upon the local Rajas and Zamindars to join in the sport of pig-sticking to be undertaken to clear the jungle of certain tracts from Mansakhan Jholmalia to Dighapatia and to bear the expense of the parties to be organized for the purpose, European and Native gentlemen being invited to take part in the sport?

2. Is it true, as stated in the *Amrita Bazar Patrika* of the 3rd February, 1904, that the Magistrate and Collector referred to in the *Asian Sporting Newspaper* is Mr. Garrett of Rajshahi?

3. Will the Government be pleased to state what sum of money, if any, has been collected in pursuance of the circular above mentioned, and how the same has been applied?

4. Has the Government taken any action with reference to the circular in question?

The Hon'ble MR. MACPHERSON replied:—

1. The attention of Government had been previously called to the Circular letter in question.

2. The Magistrate and Collector who issued the Circular is Mr. A. Garrett, Collector of Rajshahi.

3. No money has been received by the Collector as the result of the Circular, as the execution of the scheme was arrested in time.

4. The Lieutenant-Governor called on the Commissioner of Rajshahi for a full report on this matter on the 9th February last, and has recently received his report. Meanwhile, however, the Commissioner, hearing of the matter, had instructed the Collector at the end of December last to stay action in execution of his scheme until he had reported all the facts for the Commissioner's consideration. The Commissioner has now intimated to him that the scheme was impracticable and injudicious, and must be abandoned. In this opinion the Lieutenant-Governor concurs.

GOVERNMENT BUILDINGS IN CALCUTTA.

The Hon'ble BABU BHUPENDRA NATH BASU asked:—

Will the Government be pleased to lay on the table a statement showing the value of the various public buildings in Calcutta owned by the Government of Bengal and the average annual cost of maintaining the same?

The Hon'ble MR. HORN replied:—

"A statement containing the information asked for has been laid on the table."

Statement referred to in the above answer.

The following figures show the value of the various public buildings in Calcutta owned by the Government of Bengal and the average annual cost of maintaining the same.

		Value of buildings.	Average annual cost of maintenance.
		Rs.	Rs.
1st Calcutta Division	...	76,69,557	54,467
2nd ditto	...	68,24,873	83,206
Total	...	1,42,94,430	1,37,673

EXPENDITURE BY DISTRICT BOARDS FOR EDUCATIONAL PURPOSES.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

In the Budget Estimate for the current year (1903-1904) Government was pleased to transfer a sum of Rs. 4,52,940 to the District Boards, namely, Rs. 3,71,700 for expenditure on primary education, Rs. 63,000 for additional Sub-Inspectors, and Rs. 18,240 for lower primary scholarships. Will the Government be pleased to state how the said amounts were distributed among the different Divisions of this province?

The Hon'ble MR. EARLE replied:—

"A statement is laid on the table giving the information asked for by the Hon'ble Member."

Statement referred to in the above answer.

Statement showing the distribution of the sums of Rs. 3,71,700, Rs. 63,000 and Rs. 18,240, transferred to District Boards for expenditure on Primary Education, the appointment of additional Sub-Inspectors of Schools and Additional Lower Primary Scholarships.

Division		I. Distribution of the sum of Rs. 3,71,700 trans- ferred to District Boards for expen- diture on Pri- mary Education.	II. Distribution of the sum of Rs. 63,000 allotted to Dis- trict Boards for the appointment of additional Sub- Inspectors of Schools	III. Distribution of the sum of Rs. 18,240 assigned to Dis- trict Boards to meet the cost of additional Lower Primary scholar- ships.
		Rs.	Rs.	Rs.
Burdwan	...	40,000	15,000	4,464
Presidency, Calcutta.	excluding	40,000	3,000	2,496
Rajshahi	...	42,700	2,000	1,392
Dacca	...	56,000	11,000	3,696
Chittagong	...	23,400	6,000	1,104
Patna	...	84,000	5,000	2,976
Bhagalpur	...	38,100	4,000	1,152
Orissa	...	23,000	11,000	768
Chota Nagpur	...	24,500	6,000	192
Total	...	3,71,700	63,000	18,240

EXPENDITURE ON POLICE REFORMS.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

In the Budget Estimate for 1903-1904 there was a provision of four lakhs for general police reforms, which, as was then expressed, were to be carried out after the Report of the Police Commission. Will the Government be pleased to state whether any portion of the said amount has been spent during the current year towards such reforms; and if so, in what way?

The Hon'ble MR. MACPHERSON replied:—

"Certain reforms in the Police Department have been carried out in the current year as is shown by the fact that the expenditure has risen from

Rs. 63,15,000 last year to Rs. 64,06,000 this year. The sum of four lakhs specially set apart for reforms in connection with the Report of the Police Commission has, however, not been spent because the orders of the Secretary of State have not yet been received."

AGRICULTURAL BANKS AND GRAIN GOLAS.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

The Hon'ble Mr. Earle, in the course of his speech on the Bengal Financial Statement for 1903-1904, was pleased to say: "The grant for the management and improvement of Government estates in the Land Revenue Budget for 1903-1904 includes Rs. 15,000 for expenditure in connection with the opening of Agricultural Banks and grain golas in Government estates."

Will the Government be pleased to state how many Agricultural Banks and grain golas have been opened during the current year?

The Hon'ble Mr. EARLE replied:—

"The number of Agricultural Banks which have been newly opened during the current year, 1903-1904, is 7. Last year (1902-1903) there were 18 banks open, viz.:—20 in Government estates, 16 in Wards' estates, and 12 in private estates. There are now 55 such banks open, viz.:—25 in Government estates, 15 in Wards' estates, and 15 in private estates. No grain golas have yet been opened."

THE BENGAL FINANCIAL STATEMENT FOR 1904-1905.

The Hon'ble Mr. SHIRRES laid on the table the Financial Statement for 1904-1905, with explanatory notes. He said:—

"I beg to lay on the table the Financial Statement for 1904-1905, together with the usual appendices and accounts.

"Some of the budgets which my predecessors have laid upon the table have been Prosperity Budgets; others have been Famine Budgets. The budget for 1904-1905 is neither a Prosperity Budget nor a Famine Budget, but is what I may call a Financial Settlement Budget. It is the outcome of the Financial Settlement which has just been made by the Imperial Government with the Government of Bengal. This settlement constitutes a new departure, and since it not only furnishes the framework of the budget which is before us today but must powerfully although indirectly strengthen the financial position of the Local Government, I may be permitted to say a few words regarding it.

"I need not enter into the past history of Provincial decentralisation which is no doubt sufficiently well known to the Members of this Council. It is sufficient to say that the previous Financial Settlements were concluded at intervals of five years, and the procedure adopted was for the Government of India, after carefully scrutinising the different heads of expenditure, to decide how far each could be safely reduced. They did not exactly say to the Local Government that the latter should not spend more money under a particular head, but they did say that in making the Settlement they would not allow for a higher expenditure. The scale of expenditure which was thus evolved they called the ruling account, and they then proceeded to make over an income just sufficient to cover this expenditure.

"Now, in the first place, it is obvious that when a Financial Settlement is concluded in this manner the Local Government has practically no alternative but to adopt the ruling account as the basis of its budget estimate. Indeed the ruling account and the budget estimate would be identical were it not for two reasons. In the first place the ruling account corresponds with the revised estimate of the year in which it is made, and the budget estimate of the following year may and should show an increase. In the second place when the Government of India have prepared a ruling account and shown that the revenue of a Local Government exceeds its necessary income, they do not usually resume the whole difference, but share it with the Local Government. In a word the Government of India make over not only enough income to cover the ruling account but also something over. This something over, however, is for the most part required to meet expenditure, the necessity of which had been affirmed on the one side and denied on the other. All this is to explain that few reforms involving recurring expenditure can be hoped for in such a budget

as this, unless provision has actually been made for them as part of the Settlement. Of course we should not be justified in making ourselves liable for new recurring expenditure on the strength of a lump grant, for when the lump grant was exhausted, the recurring expenditure would continue, and we should have nothing wherewith to meet it. That briefly is the relation between the new settlement and the present budget estimates.

"One other point, however, remains to be explained, namely, how a large lump grant has been made to the Local Government as part of the Settlement which has just been concluded. The new Settlement differs from those previously made in this respect that it is to last for an indefinite period. A little consideration will show that such a settlement cannot be concluded precisely on the same terms as one that is to last for only five years. Hitherto at the end of every five years the expenditure has been cut down, and income has been allotted sufficient to cover the expenditure on the revised scale. The position of the Local Government in each case depended upon the extent to which it had been cut down and upon its recuperative power, that is, upon the extent to which its new income was made up of expanding revenue. If, however, there is no intention to cut down the expenditure at the expiry of five years, it is obvious that the same proportion of expanding revenue cannot be given; for otherwise at the end of the five years the Local Government would be in a much better position than before. On the other hand, if the proportion of the expanding revenue is reduced and compensation is not otherwise given, then for the first five years the Local Government will be in a worse position than previously; for no benefit from the change of system will be felt until the five years are over, and meanwhile the Local Government will suffer from the curtailment of its growing revenue.

"The obvious remedy is for the Government of India while cutting down the expanding revenue to make a large grant so as to compensate the Local Government for the disadvantageous position in which it would otherwise be placed in during the first five years of the new system. This is the explanation of the fact that the Government of India has given us a lump grant with which to enter on the new settlement. Moreover as the grant is to compensate for a disadvantage which will last for five years this also explains the condition on which the grant is made, namely that the expenditure is to be spread over several years. I may say, however, that we did not expect so large a grant as 50 lakhs, and that in this and other respects the Government of India have dealt generously with us.

"Now as to the effect of the new Settlement on the financial position of the Local Government.

"One drawback of the system followed in the case of the previous settlements has been, that the Government of India have been no more willing to allow the Local Government to undertake recurring expenditure than if no Financial Settlements had existed. The reason of this is that at the end of five years it was practically impossible for the Government of India to cut down recurring expenditure, for which the Local Government had made itself liable. Consequently, at the end of five years the liability for the new expenditure had to be allowed for in the new Settlement, and practically it was passed on to the Government of India. The new Settlement which has now been made, however, is not for five years, but for an indefinite period. No doubt the sanction of the Government of India will be necessary in the future as in the past, but they will not be able to put forward the argument hitherto used that the liability will pass on to them at the expiry of the settlement, and practically the Local Government will be in a very much stronger position when it advocates recurring expenditure.

"But if the Government of India became liable for any recurring expenditure, on the other hand they snapped up any recurring income created by the Local Government. Thus an ordinary remunerative investment had no attractions for a Local Government, because at the end of the five years the revenues would be taken into account in the new settlement. Thus, for example, if a Local Government built houses for its officers the rent received would, when a new settlement was concluded at the end of the five years, be counted in as part of the resources made over to it for the purpose of meeting the expenditure under that new settlement.

"It may be pointed out also that, theoretically at any rate, the Local Government is now in a position to give a guarantee or to borrow money. Of

course it does not follow that the Government of India will permit the Local Government to do so. Nevertheless, the change constitutes a step towards greater financial autonomy and is bound to have a strong indirect influence.

"In addition to the lump grant of fifty lakhs to which I have referred the Government of India have also made to us two other grants—one of five lakhs and one of fifty lakhs. The former is for expenditure on special public objects which has not been provided for in the Settlement, and the distribution of the amount has been left to the Lieutenant-Governor. The manner in which His Honour has distributed the grant is shown in paragraph 15 of the Explanatory Notes which I have put on the table. The other grant, namely, that for fifty lakhs, represents the contribution of the Government of India for the structural improvement of Calcutta. It is a condition that the money shall be reserved exclusively for this purpose, and it cannot be appropriated until the scheme is approved by the Government of India. It is earnestly to be hoped that a reasonable scheme for the improvement of Calcutta may be devised and adopted, so that the money may not have to be ultimately refunded to the Government of India.

"I now wish to make a few remarks about the Budget Reforms. The scale of the recurring expenditure has been cut down and the income has been adjusted to it, and it is not therefore possible for the Local Government to introduce many reforms involving such expenditure unless these have been agreed upon with the Government of India, and funds have either been provided or promised. It will be found, however, from paragraph 14 of the notes that liberal provision has been made. Of those in the list the largest and most important is, the assignment of four lakhs for the improvement of the position of ministerial officers. This is a reform which I have always advocated, and I am sincerely glad that it has fallen in my lot to introduce the budget under which it will be brought about. Nothing it is true can be done until a detailed scheme has been drawn up and sanctioned; but the details have been worked out and the scheme will be submitted to the Government of India almost immediately. Another very important reform is the increase of the staff of Deputy Collectors. The harassment of the present staff of Deputy Collectors through overwork and constant transfers is very great, and the increase will not only be a great boon to the officers personally, but will also effect a very great improvement in the administration. The provision of a lakh of rupees for Sub-Deputy Collectors has been repeated from the current year's budget. The scheme could not be carried out because sanction was not obtained. The expenditure on the staff of Commissioned Medical Officers is not confined to this Province alone, but forms a part of a scheme for the whole of India. The remaining provision for reforms consists of half a lakh for an instalment of Police reforms in Calcutta, and a sum of Rs. 48,000 to allow for an Additional Judge for the Calcutta High Court.

"I wish to add one word regarding the expenditure of 15 lakhs out of the 50 lakhs made over to the Local Government.

"As this lump grant is to compensate for the disadvantageous condition of the Local Government for the first five years of the new Settlement, it has, as already explained, been made subject to the condition that the expenditure should be spread over several years. It has however been arranged that 15 lakhs should be spent in 1904-1905. Of this sum half or 7½ lakhs has been added to the allotment for Civil Works under the Public Works Department. Of the remaining 7½ lakhs, 6 lakhs have been set apart for the housing of the Police in Calcutta and the Mafussal; one lakh will be expended on what is believed to be a remunerative scheme for leasing out land in the Sunderbans; and the remainder, Rs. 50,000, is one-half of a grant of one lakh which will be spread over two years and which will be devoted to the continuance of the experiments for the improvement of the cultivation of indigo.

"The only other point I need notice is, that the expenditure shown in the budget for the year considerably exceeds the income of the year. The difference is fully accounted for by non-recurring expenditure, as is shown in paragraph 13 of the Explanatory Notes. Owing to the large grant which has been made to the Local Government it will be in a position next year to expend considerable sums on buildings or other purposes the expenditure on which is non-recurring, although it is not in a position to increase its recurring expenditure or to introduce reforms other than those stated which involve such expenditure.

"The Financial Statement will come up for discussion on the 6th of April, and in the meantime my Colleagues and I shall be happy to give to Hon'ble Members any information which they may require. We shall also be greatly obliged if Hon'ble Members will extend to us the courtesy shown to our predecessors, and will give notice to us as soon as possible of any points which they propose to bring forward, so that we may be prepared with the necessary explanations."

PART I.—General Review.

(1) ACCOUNTS FOR 1902-1903.

1. When the revised estimates for 1902-1903 were laid before the Council on the 28th March 1903, the closing balance of that year was estimated at Rs. 56,43,100. The actual closing balance was not known till the accounts were finally closed some months later, and it then turned out to be worse by Rs. 1,14,000. The receipts had been under-estimated by Rs. 89,000, but on the other hand the expenditure had also been under-estimated by Rs. 2,03,000. The real closing balance was therefore Rs. 55,29,000.

(2) REVISED ESTIMATE FOR 1903-1904.

2. The next step towards the preparation of the budget for the year 1904-1905 is the revision in the light of the latest information of the estimate for the year 1903-1904 which last March was laid upon the table in the form of a budget estimate. More accurate information is now available and certain changes have been made. A year ago the opening balance of the year 1903-1904 was a matter of estimate, now the actual figure is known from the accounts of the year 1902-1903; moreover, since then the progressive income and expenditure have been closely watched month by month: also savings under some heads have been transferred for expenditure under others: and, lastly, certain extraordinary items, chiefly large grants from the Imperial Government, have to be brought into the account.

3. During the first half of the current year the rainfall was unsatisfactory and the ordinary revenue was considerably less than had been anticipated, so much so that at one time it was actually found necessary to curtail expenditure. When the *Hatiga* rains had passed, however, there was a complete recovery, and now it is evident that the receipts from ordinary revenue will exceed the estimates.

4. In March 1903 the forecast of my predecessor was that the year 1903-1904 would open with a credit balance of Rs. 56,43,000, that the total revenue would amount to Rs. 5,16,25,000, that the total expenditure would be Rs. 5,52,68,000 and that the year would close with a balance of Rs. 20,00,000.

5. As already noted, however, the opening balance of 1903-1904, which corresponds with the closing balance of 1902-1903, has proved to be worse than the estimate by Rs. 1,14,000. On the other hand it is anticipated that there will be a net improvement in the receipts from ordinary revenue amounting to Rs. 2,24,000. This is the net result on the one hand of increases under Land Revenue, Stamps, Miscellaneous, and Irrigation and Navigation, and on the other hand of decreases under Jail Manufactures, Forests, Assessed Taxes and Provincial rates. If the opening balance and ordinary receipts be taken together they show a net improvement of Rs. 1,10,000.

6. To these receipts must be added certain extraordinary items aggregating Rs. 4,04,000, which bring the total net improvement on the receipt side up to Rs. 5,14,000. The items in question are the following:—

(A) A credit of Rs. 2,15,000 on account of the sale-proceeds of the premises No. 29, Chowringhee Road, which were the quarters of the Commissioner of Police, Calcutta. Nearly the whole of the amount realised has been paid away in the purchase of another house for the same officer.

(B) An assignment of Rs. 1,89,000 from the Imperial Revenues which is made up of—

(1) Rupees 87,000, the balance of a loan taken by the Port Commissioners of Chittagong for the purchase of the steam vessel *Gekko*, the remission of which was sanctioned by His Excellency the Viceroy during his recent visit to that Port. There is a corresponding charge under "Miscellaneous" on the expenditure side.

- (2) Rupees 1,00,000 as a contribution towards the cost of the Teesta Valley Road in Sikkim.
- (3) Rupees 2,000 to pay for the additional police force sanctioned for the frontier.

These grants are distinct from the large grants amounting to Rs. 1,05,00,000 which are referred to below.

7. On the expenditure side there have been savings amounting to Rs. 28,48,000 and increases amounting to Rs. 20,63,000, the result being a net improvement of Rs. 7,85,000. When this is added to the net improvement of Rs. 5,14,000 on the receipt side, the sum is a total net improvement of Rs. 12,99,000. The revised estimated closing balance is therefore raised by this amount, and becomes Rs. 32,99,000 in place of Rs. 20,00,000.

The savings referred to are principally made up of the following amounts:—

- (a) and (b) Rupees 3,02,000 under Land Revenue, and Rs. 3,49,000 under Judicial Courts, owing partly to over-estimates in the budget and partly to the provision for the reorganization of the Subordinate Executive Service not having been fully utilized;
- (c) Rupees 2,69,000 under Jails chiefly in raw materials owing to smaller demands for manufactures;
- (d) Rupees 5,50,000 under Police owing to the suspension of any large reforms pending orders on the recommendations of the Police Commission;
- (e) Rupees 1,72,000 under Marine owing to no payment having been made for the new steamer ordered to replace the Pilot vessel *Sarsuti*;
- (f) Rupees 3,84,000 under Education, of which a part is nominal having been added to the Public Works Department grant for expenditure on Educational buildings, and a part is due to the scheme for the Provident Fund for gurus not having yet been sanctioned by the Secretary of State;
- (g) Rupees 2,52,000 under Medical owing to smaller outlay on preventive measures against plague;
- (h) Rupees 95,000 under Scientific and other Minor Departments, owing to the grant for the Pusa Farm not having been utilised, and no expenditure having been incurred for the Dumsong Division of the cinchona plantation;
- (i) Rupees 3,07,000 under Irrigation and Navigation owing to no outlay on the suction dredger for which a provision was made in the budget;
- (j) Rupees 38,000 under Stamps;
- (k) Rupees 40,000 under Customs.

The enhanced expenditure occurred under the following heads:—

- (1) Rupees 1,14,000 under General Administration chiefly under "Commissioners" due partly to privilege leave allowances, and larger expenditure on steam boat contingencies at Chittagong and Dacca, and partly to the adjustment of the value of tents and furniture added to the Lieutenant-Governor's tour and camp establishment;
- (2) Rupees 75,000 under Stationery and Printing owing to larger supplies of stationery from the Central Stores;
- (3) Rupees 81,000 under Miscellaneous to enable the balance of the Gehko loan to be written off;
- (4) Rupees 17,69,000 under Civil Works.

8. The effect of the improvements noted above has been as already stated to raise the closing balance in the revised estimates from Rs. 20,00,000 to Rs. 32,99,000. To this latter amount, however, must be added three grants from the Imperial Government aggregating Rs. 1,05,00,000, which finally raise the closing balance to the extraordinary figure of Rs. 1,37,99,000.

These grants are—

- (1) Rupees 50,00,000—a special grant in connection with the Provincial contract.
- (2) Rupees 5,00,000—a special grant from Imperial to Provincial for such objects or institutions as hospitals, museums, colleges, public libraries, hostels, public spaces or gardens, &c.
- (3) Rupees 50,00,000—the Imperial contribution towards the carrying out of the scheme for the Improvement of Calcutta.

BUDGET ESTIMATE, 1904-1905.

9. The Budget Estimate for 1904-1905 is practically a detailed statement of the new Provincial Settlement made by the Imperial Government with the Government of Bengal. The surplus opening balance is mainly composed of Imperial grants; on the revenue side of the Budget there are the receipts from the sources of Revenue made over to this Government, the lump assignment, and the special grant of 4 lakhs for ministerial officers; and on the expenditure side there are the various items that make up the ruling account. Provision on a generous scale has been made for reforms, but the greater part of the expenditure has either been allowed for when the ruling account was drawn up, or has been provided for in subsequent grants which have been separately made or promised.

10. The estimated opening balance is Rs. 1,37,99,000 and the manner in which this is arrived at has already been explained.

11. The estimate shows receipts aggregating Rs. 5,04,43,000, an expenditure of Rs. 5,36,97,000, and a closing balance of Rs. 1,05,45,000.

12. The ordinary Provincial minimum closing balance is Rs. 20,00,000; but in addition to that amount the Government of Bengal has agreed to keep the special grant for the improvement of Calcutta untouched, and not to spend more than 15 lakhs during the year 1904-1905 out of the grant of 50 lakhs made in connection with the Provincial Settlement; so that under the present conditions the minimum closing balance is Rs. 20+50+35, or 1,05 lakhs. The estimated closing balance is therefore Rs. 45,000 in excess of the present minimum.

13. The expenditure of the year exceeds the income by Rs. 32,54,000, and if that were a normal position, or if the expenditure were all recurring expenditure, the position would of course be unsound. The difference is, however, fully made up by the following items of "Non recurring" expenditure:—

	Rs.
Part of the grant of 50 lakhs to be spent on Public Works, Police Buildings, &c. ...	15,00,000
Special grant of the Government of India ...	5,00,000
Other Public Works expenditure in excess of Rs. 40,00,000 ...	2,20,000
Purchase of Pilot vessel to replace <i>Sarkuti</i> ...	6,75,000
Grants to District Boards for feeder roads ...	2,00,000
New Steamer for Dacca Commissioner ...	57,000
Revision of Gazetteer ...	45,000
Extension of Ravenshaw College ...	40,000
Dacca Madrassa ...	12,000
Total ...	32,49,000

14. Provision has also been made for the following reforms all of which involve recurring expenditure:—

	Rs.
(1) Increase of salaries of ministerial officers and subsistence allowance to apprentices ...	4,03,000
(2) Improvement of the position of I. M. S. Officers ...	1,20,000
(3) Increase of Sub-Deputy Collectors ...	1,00,000
(4) Calcutta Police reforms ...	50,000
(5) Pay of an Additional Judge for High Court ...	48,000
(6) Increase of Deputy Magistrates and Collectors ...	48,000
Total ...	7,66,000

To these sums must be added 2½ lakhs which the Government of India has promised to provide when a scheme has been prepared and sanctioned for strengthening the staff of Deputy Magistrates and Collectors.

15. The assignment of 5 lakhs made by the Government of India out of the Imperial surplus has been provisionally allotted as below:—

	Rs.
Grants-in-aid of Leper Asylums ...	37,000
For flooring and dados of the Medical College Hospital	75,000
For remodelling of the Campbell Medical School and Hospital ...	50,000
For additional ward in Cuttack General Hospital ...	15,000
For equipment and structural improvements in North Suburban Hospital ...	20,000
For the construction and equipment of a hospital at Kurseong ...	50,000
For equipment of Howrah General Hospital ...	20,000
Grant to the Medical Mission at Kalna ...	20,000
For equipment in surgical instruments and aseptic furniture in smaller dispensaries maintained from District and Municipal Funds ...	25,000
Other dispensaries for completion of buildings or equipment ...	17,000
Young Women's Christian Association for a Home ...	15,000
Calcutta Free School for Kindergarten Department ...	10,000
Marcus Square recreation ground in the northern part of Calcutta ...	10,000
Calcutta Orphanage for Hindus ...	5,000
Deaf and Dumb School ...	5,000
Kurseong Orphanage ...	40,000
Quarters for the Superintendent of Alms House and Workshop, and filling up a putrid tank within the compound ...	36,000
For the establishment of a laboratory and teaching museum in the Royal Botanical Garden, Sibpur ...	50,000
Total ...	5,00,000

PART II.—Detailed remarks on the Budget for 1904-1905.

RECEIPTS.

16. *Land Revenue.*—The total collections under this head in 1902-1903 amounted to Rs. 4,11,49,522, and the estimate for 1904-1905 as passed by the Government of India is Rs. 4,11,52,000. The estimate includes Rs. 4,80,000 for recoveries of the survey and settlement charges in North Monghyr, Bhagalpur and Backergunge. No recoveries are expected to commence in Ranchi till 1905-1906. The adjustments between Imperial and Provincial cease at the commencement of every new Provincial settlement, and the only items which are shown under this head represent the fixed allotment from Imperial Revenues to establish equilibrium between receipts and charges provincialized under the new financial settlement and a small grant for Sikkim Police.

17. The estimated Provincial share of Land Revenue is arrived at as follows:—

	Estimate, 1904-1905.
	Rs.
Gross Land Revenue ...	4,11,52,000
Deduct 12 per cent. on estimated collections from Government estates (Provincial) ...	6,47,000
Deduct recoveries of Bihar and Backergunge Survey and Settlement charges (Imperial) ...	4,80,000
Total deduction ...	11,27,000
Net amount divisible between Imperial and Provincial Funds ...	4,00,25,000
Provincial share of above (one-fourth) ...	1,00,06,000
Add 12 per cent. on collections from Government estates ...	6,47,000
Total Provincial ...	1,06,53,000
Add Imperial allotment ...	49,06,000
Total Provincial share ...	1,55,59,000

18. *Stamps*.—The budget estimate of the total revenue from Stamps for 1903-1904 was passed by the Government of India for Rs. 1,96,00,000. The actuals in 1902-1903 amounted to Rs. 1,95,70,438, and those during the first eleven months of 1903-1904 exceeded those of the corresponding period of the preceding year by Rs. 3,47,000. In view of these figures the revised estimate for 1903-1904 has been passed for Rs. 1,99,00,000 and the estimate for 1904-1905 has been placed at Rs. 2,02,00,000 with reference to the gradual increase of revenue. The Provincial share is one-half of this sum, and amounts to Rs. 1,01,00,000.

19. *Excise*.—The actuals of 1902-1903 amounted to Rs. 1,57,87,914, and the figures for the first eleven months of 1903-1904 show an increase of Rs. 2,87,000 over the actuals of the corresponding period of the preceding year. The original estimate for the current year, Rs. 1,61,00,000, has accordingly been repeated as the revised estimate for the year. The estimate for next year allows for the annual increase of revenue under this head, and has been placed at Rs. 1,65,00,000. The Provincial share ($\frac{1}{2}$) amounts to Rs. 72,19,000.

20. *Provincial Rates*.—The actual collections of the public works cess in 1902-1903 amounted to Rs. 48,11,599, and the estimate for next year has been taken at Rs. 48,74,000. An increase is anticipated on the completion of revaluation works in certain districts. Under General Rates for the management of private estates the estimate of receipts is Rs. 1,51,000, and this added to the estimate for receipts from the public works cess makes up the sum of Rs. 50,25,000 which appears in the abstract.

21. *Assessed Taxes*.—The budget estimate of receipts from income-tax for 1903-1904 was Rs. 50,70,000. The actual collections in the first ten months of the year amounted to Rs. 41,95,000. For the remaining two months of the year the receipts may be put at Rs. 7,55,000, and the revised estimate has been placed at Rs. 49,50,000. To this amount a sum of Rs. 2,00,000 has been added as the normal increase of revenue, and the estimate for 1904-1905 has been passed for Rs. 51,50,000. The Provincial share is one-fourth of this sum and amounts to Rs. 12,87,000.

22. *Forests*.—The total receipts under this head for 1904-1905 are estimated at Rs. 11,50,000 against Rs. 12,00,000, the budget estimate for 1903-1904, and Rs. 12,56,247, the actuals of 1902-1903. The Provincial share under the new settlement is one-fourth.

23. *Registration*.—The budget estimate under this head for 1903-1904 was Rs. 17,00,000. The actuals in 1902-1903 amounted to Rs. 16,90,766, and the collections of the first ten months of the current year show a decrease of Rs. 17,000 over those of the corresponding period of the previous year. The revised estimate for the current year has accordingly been placed at Rs. 16,70,000, while the estimate for 1904-1905 has been passed for Rs. 17,00,000. The receipts of this Department are wholly Provincial under the new settlement.

24. *Interest*.—The receipts under this head have been entered at Rs. 3,66,000, thus:—

	Rs.
Interest on advances to cultivators ...	56,000
„ on drainage and embankment advances ...	53,000
„ on loans to landholders ...	2,000
„ on loans to municipalities and other public corporations ...	1,95,000
„ on Government securities ...	12,000
Miscellaneous ...	48,000
Total ...	3,66,000

25. *Law and Justice—Courts of Law*.—The actuals in 1902-1903 amounted to Rs. 8,10,000, and the receipts in the first ten months of the current year show a decrease of Rs. 27,000 as compared with those of the corresponding period of the preceding year. The revised estimate has, accordingly, been passed for Rs. 7,90,000 and the estimate for next year at Rs. 7,97,000.

26. *Jails*.—The actuals of the twelve months ending 31st December 1903 were Rs. 10,87,000, and adding to this an adjustment of Rs. 1,22,000 made in January 1904 on account of Jail supplies, the budget estimate for 1903-1904 has been reduced from Rs. 14,17,600 to Rs. 12,00,000 in the revised estimate. The same figure has been adopted as the budget estimate for 1904-1905.

27. *Police*.—The estimate under this head amounts to Rs. 2,05,000 against Rs. 2,15,858, the actuals of 1902-1903, and Rs. 1,94,000, the revised estimate for 1903-1904.

28. *Marine*.—The budget estimate for 1904-1905 has been passed for Rs. 12,80,000 against the revised estimate of Rs. 12,84,000 for 1903-1904.

29. *Education*.—The estimate under this head is Rs. 7,30,000 against Rs. 7,20,000, the revised estimate for 1903-1904, and Rs. 7,08,909, the actuals of 1901-1902. The increase is expected mainly from the fees at high schools.

30. *Medical*.—The estimate under this head is Rs. 2,15,000 against Rs. 2,23,687, the actuals of 1902-1903. There were special receipts under Lunatic Asylums in 1902-1903, which are not anticipated in the budget.

31. *Scientific and other Minor Departments*.—The total receipts for 1904-1905 are estimated at Rs. 2,67,000 against Rs. 2,64,841, the actuals of 1902-1903. The revised estimate for 1903-1904, based on the actuals of the ten months of the year, has been placed at Rs. 2,40,000.

32. *Miscellaneous*.—The receipts for 1904-1905 are estimated at Rs. 9,13,000 against Rs. 10,56,000, the revised estimate for 1903-1904. Larger receipts are anticipated from the sale of elephants in consequence of recent extensive captures in Angul, while lapsed deposits are not expected to be so high as in the current year. Other fluctuations are explained in Appendix A.

33. *Irrigation Major Works (Direct Receipts)*.—The estimate for 1904-1905 is Rs. 18,77,000 against Rs. 18,45,000 the estimate for 1903-1904. Smaller receipts are anticipated from the Midnapore and Hijili Tidal Canals while an improvement is expected in the Sone Canals.

34. *Minor Works and Navigation in charge of the Public Works Department*.—The estimate for 1904-1905 is Rs. 5,40,000 against Rs. 6,00,000, the sanctioned estimate for 1903-1904. The expected increase in the Calcutta and Eastern Canals has not occurred.

35. *Civil Works in charge of the Public Works Department*.—The receipts for 1904-1905 are estimated at Rs. 2,00,000 against Rs. 4,87,000, the revised estimate for 1903-1904. The revised estimate includes Rs. 2,15,000, the sale-proceeds of 29 Chowringhee, the residence of the Commissioner of Police, Calcutta, and larger receipts from the profits of the Darjeeling-Himalayan Railway.

EXPENDITURE.

36. *Refunds and Drawbacks*.—The estimate for 1904-1905 is Rs. 1,26,000 against Rs. 1,87,000 for 1903-1904. The decrease is due to the reduction in the Provincial share in some of the principal heads of revenue.

37. *Land Revenue*.—The total Provincial expenditure for 1904-1905 is estimated at Rs. 44,00,000 against Rs. 41,12,000, the revised estimate for the current year, as shown below:—

	Actuals, 1902-1903. Rs.	Revised estimate, 1903-1904. Rs.	Budget estimate, 1904-1905. Rs.
(1) Charge of District Administration ...	31,47,181	31,01,000	34,54,000
(2) Management of Government estates ...	5,58,192	5,81,000	5,55,000
(3) Survey and Settlement ...	10,204	3,16,000	3,00,000
(4) Land Records and Agriculture ...	1,00,530	1,14,000	91,000
Total ...	38,16,057	41,12,000	44,00,000

38. The increase under (1) includes a lump provision of Rs. 1,50,000 for increase of salaries of ministerial officers, for which a special assignment of four lakhs has been obtained from the Government of India, the balance of the allotment having been provided under Courts of Law. The details of the

scheme as how best to ameliorate the condition of these hardworked and deserving officers with the grant thus added to the Provincial revenues are under preparation for submission to the Supreme Government. The budget also includes a provision of Rs. 1,48,000 for a larger number of Sub-Deputy Collectors and Deputy Magistrates, of which one-half is provided under this head and the other half under Law and Justice. The total cost of strengthening the staff of Deputy Collectors is estimated at Rs. 3,50,000, and when the scheme is sanctioned a further assignment of 2½ lakhs will be made from the Imperial Revenues. The revised estimate under (2) includes special grants for improvements, while that under (4) provides for temporary establishment in districts. Under the new financial arrangement the ordinary expenditure on account of survey and settlements in temporarily-settled and Government estates and other miscellaneous items will be Provincial, and the budget grant for these is Rs. 3,00,000. The actuals of 1902-1903 include a special writeback of Rs. 1,27,611.

39. *Stamps*.—The estimate for 1904-1905 is Rs. 7,80,000 against Rs. 8,04,000, the budget grant for 1903-1904. The decrease is chiefly under "Stamp paper supplied from Central Stores," the estimate under this head being Rs. 3,49,000 against Rs. 3,68,000, the budget estimate for 1903-1904. The Provincial share under the new settlement (one-half) is Rs. 3,90,000.

40. *Excise*.—The total expenditure for 1904-1905 is estimated at Rs. 8,20,000 against Rs. 8,12,000, the budget grant for 1903-1904. Increased provision has been made under Allowances and District Distillery Establishment. Under the new settlement the Provincial share is seven-sixteenths and amounts to Rs. 3,59,000.

41. *Provincial Rates*.—The estimate for 1904-1905 is Rs. 1,04,000 against Rs. 1,20,000, the budget grant for the current year. The decrease is chiefly under Revaluation charges, which have been budgetted for according to local requirements.

42. *Assessed Taxes*.—The expenditure for 1904-1905 is estimated at Rs. 1,64,000 against Rs. 2,06,000, the sanctioned estimate for the current year. The decrease is due to reduction of establishment consequent on the reduction in the number of assesses. The Provincial share under the new settlement is one-fourth.

43. *Forests*.—The total budget grant for 1904-1905 is Rs. 7,61,000 against Rs. 7,20,000, the estimate for 1903-1904. The increase is mostly due to larger reservations and delimitations in Chittagong and for creaser-cutting. The Provincial share is one-fourth under the new arrangement.

44. *Registration*.—The charges are estimated at Rs. 9,70,000 against Rs. 9,60,000, the grant for the current year. The increase is due partly to larger provision for new registration offices and partly to a new provision of Rs. 8,000 to meet money-order commission on remittances made by Sub-Registrars to head quarters. The charges under the new arrangement are entirely Provincial.

45. *General Administration*.—The estimate for 1904-1905 is Rs. 18,56,000 against Rs. 17,56,000, the sanctioned estimate for 1903-1904. The increase is chiefly due to the higher rate of household allowance of His Honour the Lieutenant-Governor and to a provision of Rs. 57,000 for a new steam-launch for the Commissioner of Dacca to replace the *Lerna*.

46. *Law and Justice—Courts of Law*.—The budget estimate under this head for 1903-1904 was Rs. 99,30,000, but in the revised estimate this has been reduced to Rs. 95,81,000 with reference to known actuals of the year. The estimate for 1904-1905 has been passed for Rs. 1,00,00,000, which includes provision for an additional Puisne Judge of the High Court and establishment, for the appointment of an additional Presidency Magistrate, for additional Sub-Deputy Magistrates and Deputy Magistrates, and for increase of salaries of ministerial officers.

47. *Jails*.—The budget estimate for 1903-1904 has been reduced from Rs. 28,59,000 to Rs. 25,90,000 in the revised estimate, the decrease being due to smaller expenditure under Dietary charges, Clothing and Bedding, Miscellaneous Services and Supplies, and Purchase of raw materials. The estimate for 1904-1905 has been placed at Rs. 26,80,000.

48. *Police.*—The following table compares the estimates under this head:—

		Actuals, 1902-1903.	1903-1904.		Estimate, 1903-1904.
			Budget.	Revised.	
		Rs.	Rs.	Rs.	Rs.
(1) Presidency Police	...	8,51,291	9,36,000	8,34,000	9,17,000
(2) Municipal "	...	39,039	49,000	49,000	49,000
(3) Superintendence	...	1,67,677	1,69,000	1,68,000	1,68,000
(4) District Executive Force	...	48,59,320	53,93,000	49,41,000	49,93,000
(5) Village Police	...	6,084	62,000	50,000	52,000
(6) Special "	...	1,66,135	1,52,000	1,69,000	1,66,000
(7) Railway "	...	1,69,926	1,90,000	1,82,000	1,96,000
(8) Cattle-pounds	...	1,188	1,000	1,000	1,000
(9) Refunds	...	11,460	14,000	12,000	10,000
Total	...	63,22,105	69,56,000	64,06,000	65,50,000

The budget for the current year included a lump provision of Rs. 4,50,000 for any reforms which might be sanctioned on receipt of orders on the Police Commission's report. These orders have not yet been issued, and the greater portion of the grant has lapsed. The estimate for next year includes a provision of Rs. 50,000 for reforms under Calcutta Police and larger allotments both for Railway Police and Special Police.

49. *Marine.*—The budget provides for a total expenditure of Rs. 17,40,000, against Rs. 10,53,891, the actuals of 1902-1903. The increase is mainly due to a provision of Rs. 6,75,000 for the purchase of a vessel to replace the Pilot vessel *Sarsuli*.

50. *Education.*—In order to have a correct idea of the growth of expenditure under Education, it is necessary to show the disbursements both in the Provincial and District Fund accounts, since most of the expenditure under the latter is met from grants from the Provincial Revenues. The following table shows the charges from 1901-1902:—

		ACCOUNT.		Revised estimate, 1903-1904.	Budget estimate, 1904-1905.
		1901-1902.	1902-1903.		
		Rs.	Rs.	Rs.	Rs.
<i>Provincial.</i>					
Direction	...	78,000	68,000	86,000	87,400
Inspection	...	3,53,000	3,44,000	3,45,000	3,62,000
Government Colleges, General	...	5,34,000	5,56,000	5,41,000	6,25,000
Ditto do., Professional	...	2,13,000	2,28,000	2,76,000	2,34,000
Ditto Schools, General	...	6,27,000	6,47,000	6,63,000	7,10,000
Ditto do., Special	...	2,59,000	2,64,000	3,81,000	4,42,000
Grant-in-aid	...	6,23,000	7,24,000	8,31,000	7,66,000
Scholarships	...	1,97,000	1,99,000	1,95,000	2,02,000
Miscellaneous	...	55,000	76,000	79,000	86,800
Refunds	...	2,000	6,000	3,000	5,000
Total Provincial	...	29,41,000	31,12,000	34,00,000	35,19,000
<i>Local.</i>					
Inspection	...	3,04,000	3,11,000	3,55,000	4,00,000
Schools	...	1,22,000	1,24,000	1,27,000	1,45,000
Grants-in-aid	...	8,55,000	12,30,000	14,10,000	12,13,000
Scholarships	...	30,000	31,000	32,000	63,000
Miscellaneous	...	21,000	52,000	66,000	36,000
Refunds	...	.....	.....	...	.....
Total Local	...	13,32,000	17,48,000	19,90,000	18,57,000
GRAND TOTAL	...	42,73,000	48,60,000	53,90,000	53,76,000

51. The increase of expenditure in 1902-1903 and 1903-1904 over that in 1901-1902 has been Rs. 5,87,000 and Rs. 11,17,000 respectively, and has been rendered possible by a special grant of Rs. 10,00,000 made from the Imperial Revenues. A part of this assignment was allotted to Public Works Department for expenditure on educational buildings. The budget includes the following provision :—

	Rs.
Training institutes for primary schools ...	66,000
Training College ...	20,000
Raising the status of the Dacca Survey School ...	56,800
Training of teachers and demonstrators ...	3,200
Industrial scholarships in Europe ...	4,500
Training of officers in Europe ...	2,000
Deputy Director of Public Instruction ...	6,000
Extension of Ravenshaw College ...	40,665
Extension of Dacca Madrasa ...	12,085

52. *Medical.*—The estimate for 1904-1905 is Rs. 23,00,000, against the revised estimate of Rs. 21,18,000. The budget includes Rs. 1,20,000 for the improvement of the Indian Medical Service, larger provision for Lunatic Asylums, and Leper Asylums, and for equipment of the Campbell Hospital and the Presidency General Hospital.

53. *Scientific and other Minor Departments.*—The expenditure under this head is estimated at Rs. 6,80,000, against Rs. 6,33,000, the revised estimate for the year. Provision has been made for the introduction of the Glanders and Farcy Act in Calcutta, for an additional farm to demonstrate the value of irrigation, and for larger grants for Agricultural and Silk experiments.

54. *Superannuation.*—The charge under this head show a progressive increase year after year owing to the increase in the claims to pensions. The estimate for 1904-1905 is Rs. 26,57,000, against Rs. 25,68,000, the revised estimate for 1903-1904, and Rs. 24,71,341, the actuals of Rs. 1902-1903.

55. *Stationery and Printing.*—The estimate for 1904-1905 is Rs. 13,83,000, against Rs. 13,73,253, the actuals of 1902-1903, and provides Rs. 22,000 for the reorganization of the Stationery Office and larger outlay on Supplies and Services, and larger grant for overtime allowances in Government presses. The value of stationery supplies is not expected to be so high as in 1902-1903.

56. *Miscellaneous.*—The revised estimate for 1903-1904 is Rs. 3,40,000, against Rs. 2,59,000, the original budget estimate for the year. The increase is due to the writing off of the balance of the loan granted to the Chittagong Port Fund for the purchase of the steam tug *Gekko*. The estimate for 1904-1905 is Rs. 2,72,000 and includes a provision of Rs. 15,000 for charges in connection with the examination and arrangement of Government records.

57. *Irrigation Minor Works and Navigation.*—The estimate for 1904-1905 is Rs. 13,86,000, against Rs. 19,55,000 for the year 1903-1904. The estimate for 1903-1904 included a provision of Rs. 5,00,000 for a suction dredger, the purchase of which has been kept in abeyance. The estimate for next year includes grants for Dudhai Canal and Zeerut Bridge, and larger outlay on Agricultural and Drainage works.

58. *Civil Works.*—The allotment under this head is Rs. 65,20,000 and includes the assignment of Rs. 15,00,000 out of the lump grant of Rs. 50,00,000 made by the Government of India for starting the new financial arrangement and the special grant of 5 lakhs already referred to above. Rupees 7,50,000 out of these special amounts has been included in the grant for works in charge of the Public Works Department and the balance is shown under Works in charge of the Civil Department and will be reappropriated when the grants are actually sanctioned. The provisional allotment of the special grant of 5 lakhs is already referred to in the first part of the statement and the greater portion of the balance included under Works in charge of the Civil Department has been reserved for expenditure on Police buildings in

Calcutta and in the interior of the districts. The following table shows the principal works for which provision has been made in the budget:—

	Rs.
Munsifs' Courts ...	1,00,000
Do. Residences ...	50,000
Cuttack circuit-house ...	30,000
Dhanbad Subdivisional Buildings ...	30,000
High Court extension, Calcutta ...	1,50,000
Patna Distillery water-supply improvements ...	16,200
Chittagong Jail Works ...	35,000
New Presidency Jail ...	3,00,000
Noapara Police Buildings ...	12,500
Training College, Dacca ...	18,000
Dacca Madrasa class-room ...	10,000
Dacca new College Buildings ...	2,20,000
Dow Hill Girls' School additions ...	29,000
Bhagalpur—Accommodation for Inspector and Assistant Inspector of Schools ...	11,000
Nurses' quarters—Medical College and Eden Hospital, Calcutta ...	1,50,000
Surgical Ward—Medical College, Calcutta ...	2,00,000
Berhampore Central Lunatic Asylum Additional works ...	21,000
Balasore new Central Hospital ...	14,400
Residences for Government officials ...	2,00,000
Iron Bridges—Ganges and Darjeeling Road ...	19,000
Duara Road ...	37,000
Tista Valley Road ...	2,00,000
Circuit house, Ranohi ...	11,000
Court-houses for Deputy Magistrates, Noakhali ...	20,000

59. *Contribution to Local.*—The allotment under this head for 1903-1904 is Rs. 15,29,000, against Rs 19,90,000, the actual grant for 1902-1903. The contribution for Education has risen by Rs. 4,50,000, but in consequence of the new Provincial Settlement the special grant of 5 lakhs, which has hitherto been made to the District Funds for improvement of communications, could not be provided for.

BENGAL PROVINCIAL REVENUE.

(The figures are in thousands of rupees, except for actuals.)

HEADS	Actuals, 1902-1903	1903-1904.		1904-1905.
		Budget.	Revised.	Estimate.
1	2	3	4	5
Opening balance	Rs. 40,05,782	Rs. 56,48	Rs. 55,39	Rs. 1,37,99
Principal Heads of Revenue—				
I.—Land Revenue { Proper	1,06,87,037	1,06,97	1,07,28	1,06,53
Adjustments	—8,683	—3,52	+ 1,03,87	+ 49,06
IV.—Stamps	1,46,77,828	1,47,00	1,49,25	1,01,00
V.—Excise	78,98,957	80,50	80,50	72,19
VI.—Provincial Rates	49,78,996	49,92	49,50	50,25
VII.—Customs	2,28,267	2,60	2,50	.....
VIII.—Assessed Taxes	29,26,093	25,85	24,75	12,87
IX.—Forests	6,28,128	6,00	5,25	2,88
X.—Registration	8,45,884	8,50	8,85	17,00
Total	4,28,51,991	4,22,82	5,30,75	4,11,78
XII.—Interest	8,47,632	8,60	8,38	8,60
Receipts by Civil Department—				
XVI.—Law and Justice—				
Courts of Law	8,10,900	8,00	7,90	7,97
Jails	12,08,284	14,17	12,00	12,00
XVII.—Police	2,15,858	1,84	1,84	2,05
XVIII.—Marine	12,73,832	12,71	12,54	12,90
XIX.—Education	7,08,909	7,28	7,20	7,30
XX.—Medical	2,28,687	2,25	2,20	2,15
XXI.—Scientific and other Minor Departments	2,64,941	2,57	2,40	2,67
Total	47,00,111	48,82	40,48	40,94
Miscellaneous—				
XXII.—Receipts in aid of Superannuation	90,057	75	98	87
XXIII.—Stationery and Printing	1,37,910	1,45	1,38	1,41
XXIV.—Miscellaneous	9,75,078	8,50	10,56	9,18
Total	12,03,645	10,70	12,87	11,41
Irrigation—				
XXIX.—Major Works (direct receipts)	21,21,308	18,45	19,45	16,77
XXX.—Minor Works and Navigation—				
By Public Works Department... ..	5,45,681	5,00	5,40	5,40
By Civil Department	1,12,817	1,09	1,20	1,25
Total	27,82,756	25,54	26,05	25,42
Buildings and Roads—				
XXXII.—Civil Works—				
By Public Works Department.. ..	2,46,627	2,00	4,67	2,00
By Civil Department	2,58,930	2,64	2,50	2,59
Total	4,99,557	4,64	7,17	4,59
Contributions	62,944	63	68	68
Total Revenue	5,24,54,736	5,16,25	6,27,58	5,04,43
GRAND TOTAL	5,73,60,518	5,72,68	6,82,82	6,42,42

BENGAL PROVINCIAL EXPENDITURE.

(The figures are in thousands of rupees except for actuals.)

Hhads.	Actuals, 1902-1903.	1903-1904.		1904-1905.
		Budget.	Revised.	Estimate.
1	2	3	4	5
Direct demand on the revenues—	Ra.	Ra.	Ra.	Ra.
1. Refunds and Drawbacks ...	2,30,650	1,87	1,85	1,26
2. Assignments and Compensations ...	1,58,514	1,70	1,63	1,70
3. Land Revenue ...	38,16,957	44,14	41,12	44,00
6. Stamps ...	5,46,586	6,03	5,65	8,90
7. Excise ...	8,87,764	4,00	4,00	3,59
8. Provincial Rates ...	1,08,445	1,20	1,00	1,04
9. Customs ...	8,96,960	10,00	9,60	.....
10. Assessed Taxes ...	1,00,598	1,03	93	41
11. Forests ...	8,19,007	3,60	3,40	1,90
12. Registration ...	4,76,815	4,50	4,77	9,70
Total ...	70,40,991	78,43	73,95	67,50
13. Interest on ordinary debt ...	2,01,879	2,09	2,01	2,23
Post Office, Telegraph and Mint—				
15. Post Office ...	3,933	6	6	.....
Salaries and expenses of the Civil Department—				
18. General Administration ...	22,04,560	17,56	18,70	18,56
19. Law and Courts of Law ...	95,54,700	99,30	95,81	1,00,00
Justice. { Jails ...	26,90,698	28,59	25,90	26,80
20. Police ...	63,22,105	69,56	64,06	65,50
21. Marine ...	10,53,891	12,72	11,00	17,40
22. Education ...	31,12,780	37,84	34,00	35,19
24. Medical ...	20,26,388	23,70	21,18	23,00
25. Political ...	9,881	22	32	23
26. Scientific and other Minor Departments.	5,70,528	7,28	6,38	6,80
Total ...	2,75,45,180	2,96,77	2,77,30	2,93,48
Miscellaneous—				
29. Superannuation, &c. ...	24,71,941	25,60	25,68	26,57
30. Stationery and Printing ...	13,73,253	12,51	18,29	13,88
32. Miscellaneous ...	8,50,251	2,59	3,40	2,72
Total ...	41,95,445	40,78	42,37	43,12
Famine Relief and Insurance—				
33. Famine Relief ...	100	.....	.....	.....
Railway Revenue Account—				
40. Subsidised Company's land ...	.....	.. ..	6	3
Irrigation—				
42. Major Works—				
Working Expenses ...	10,68,355	12,25	10,78	11,74
Interest on Debt ...	24,53,324	24,53	24,58	24,52
43. Minor Works and Navigation—				
By Public Works Department ...	16,06,847	19,50	17,95	18,81
By Civil Department ...	4,527	5	5	5
Total ...	51,33,053	56,33	53,26	50,12
Buildings and Roads—				
45. Civil Works—				
By Public Works Department ...	55,69,350	55,20	74,68	48,70
By Civil Department ...	1,50,844	8,57	1,86	15,50
Total ...	57,20,194	58,77	76,46	65,20
Contributions ...	19,90,372	19,50	19,36	15,29
Total Expenditure ...	5,18,31,097	5,52,68	5,44,83	5,36,97
Closing balance ...	55,29,421	20,00	1,37,09	1,05,45
GRAND TOTAL ...	5,78,80,518	5,73,68	6,32,82	6,42,42
Provincial surplus (+) or deficit (—) ...	+ 6,23,639	(—) 36,43	+ 82,70	— 32,54

APPENDIX A.

Bengal Provincial Receipts, in detail, of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

The remarks in column 6, except when otherwise specially explained, refer to differences between columns 3 and 5

1.—Land Revenue—

HEADS.	1902-1903.	1903-1904.	1904-1905.	REMARKS.
1	2	3	4	5
Gross Land Revenue	Rs. 4,11,40,882	Rs. 4,07,17,000	Rs. 4,11,30,000	Rs. 4,11,30,000
Deduct 12 per cent. on collections from Government Estates (Provincial)	6,83,927	6,17,000	6,54,000	6,47,000
Deduct recoveries of Bihar and Backergunge Survey and Settlement charges (Imperial)	3,60,234	1,60,000	1,60,000	4,80,000
Total deduction	10,44,161	7,77,000	8,14,000	11,27,000
Net amount divisible between Imperial and Provincial	4,01,30,321	3,29,30,000	4,02,86,000	4,00,13,000
Provincial share of above (one-fourth)	1,00,34,080	82,32,500	1,00,74,000	1,00,08,000
Add 12 per cent. on collections from Government Estates	6,83,927	6,17,000	6,54,000	6,47,000
Net	1,07,18,007	1,05,07,000	1,07,28,000	1,06,55,000
Deduct on account of adjustments as shown below	8,000	3,52,000	1,02,37,000	+ 60,00,000
Total Provincial share	1,06,78,344	1,02,45,000	1,10,65,000	1,30,68,000

The increase in Revised is due to larger collections from Government estates and to larger revenue record-room receipts.

North Monghyr Rs. 80,000
 Bhagalpur 2,30,000
 Backergunge 1,50,000
 4,60,000

Adjustments—

Fixed contribution to Imperial Revenue under the Financial Settlement	14,19,000	14,10,000	14,19,000	...
Add payable to Imperial—				
For transfer of the South Lushai Administration to Assam	3,75,000	3,75,000	3,75,000	...
For transfer of the Economic and Art Section of Indian Museum	19,000	19,000	19,000	...
For contribution to the Nawab of Murshidabad for repairs to the Nizamat buildings	5,000	...	...	...
For transfer of Statistical Department of the Bengal Secretariat to the Office of the Director-General of Statistics	14,910	15,000	15,000	...
Compensation to the Assam Administration on account of the realisation in Bengal of income-tax from the Assam Bengal Railway	13,000	13,000	13,000	...
Compensation to the Central Province Administration on account of the realisation in Bengal of income-tax from the Bengal-Nagpur Railway	15,477	16,000	16,000	...
Total	18,09,387	18,07,000	18,57,000	...
Deduct to be recovered from Imperial—				
Fixed contribution from Imperial Revenue under the new Provincial Settlement	...	...	...	49,08,000
Lump initial grant to start the new Provincial Settlement with	...	...	50,00,000	...
Contribution on account of the Calcutta Improvement Scheme	...	...	50,00,000	...
Grant from Imperial surplus for special works of public utility	...	...	5,00,000	...
Contribution for transfer of Imperial building for 1901-1902 and 1902-1903	20,496	...	...	...
Special assignment for resumed chaudiari lands in Orissa	27,98	20,000	50,000	...
Ditto of three-fourths of the sale-proceeds of certain village cadastral maps	5,734	4,000	4,000	...
Contribution for increase of expenditure under Education	10,00,000	10,00,000	10,00,000	...
Special assignment for expenditure under Public Works	6,00,000	...	...	...
Assignment for expenditure on Surgical block, Medical College Hospital in 1903-1904	2,00,000	...	...	...
Assignment for expenditure under Irrigation Minor Works	20,000	...	...	...
Assignment for remission of income-tax on incomes below Rs. 1,000	...	4,65,000	4,65,000	...
Assignment on account of salary, leave and other allowances of Assam officials drawn in Bengal	27,657	...	...	...
Contribution on account of the writing off of the Gekko loan	...	...	87,000	...
Contribution for expenditure in connection with the Fata Valley Road	...	...	1,10,000	...
Contribution for Sikkim Police	...	...	2,000	...
Total	19,00,000	15,05,000	1,21,14,000	49,08,000
Net sum to be transferred	-8,643	-3,22,000	+1,60,37,000	+49,16,000

All adjustments between Imperial and Provincial cease at the commencement of a new settlement.

Vide remarks above.

IV.—Stamps—

Sale of general stamps	23,47,311	24,51,000	25,00,000	24,50,000
Sale of court-fee stamps	1,35,112	1,78,000	1,41,000	1,45,000
Sale of plain paper to be used with court-fee stamps	2,51,271	2,81,000	2,00,000	2,00,000
Duty on impressing documents	45,711	79,000	30,000	23,000
Fines and penalties	10,181	10,000	2,000	30,000
Miscellaneous	16,246	15,000	10,000	16,000
Total	1,95,70,423	1,95,00,000	1,98,04,000	2,02,00,000
Provincial share	1,46,77,825	1,47,00,000	1,49,25,000	1,51,00,000

The increase in revised is attributed to increased litigation.

Revised based on actuals for 11 months. Budget allows for normal expansion of 3 lakhs.
 Provincial share under the new settlement reduced from three-fourths to one-half.

V.—Excise—

HEADS.	1903-1904.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
License and distillery fees and duties for the sale of liquors and drugs—	Rs.	Rs.	Rs.	Rs.	
Foreign liquors	2,73,917	4,00,000	3,80,000	4,00,000	
Indian-made liquors excised at tariff rates	8,29,325	9,80,000	9,30,000	9,80,000	
Country spirits—					
Distillery	13,30,440	74,70,000	13,00,000	13,30,000	
Distilleries	37,81,341		38,40,000	38,80,000	
Still head duty	23,12,512		23,80,000	24,00,000	
Miscellaneous	2,053		90,000	90,000	
Toddy revenue	10,77,106	11,50,000	11,40,000	12,00,000	
Opium and its preparation	7,38,576	7,40,000	7,20,000	7,40,000	
Other drugs, ganja, bhang, &c.	17,07,674	17,01,000	17,30,000	17,31,000	
Total	1,21,73,906	1,24,00,000	1,24,70,000	1,27,60,000	Budget framed with reference to the progressive increase of revenue.
Gain on sale-proceeds of excise opium	19,37,050	20,00,000	19,00,000	20,00,000	The decrease is revised in due to smaller issues as the result of the close watch kept on smugglers.
Duty on ganja	16,68,036	16,80,000	16,90,000	17,00,000	
Fines, confiscations and miscellaneous	15,927	20,000	40,000	40,000	A special receipt of Rs. 16,000 on account of fees for over head supply of water at the Rouse Distillery chiefly accounts for the increase in the revised estimate under this head.
GRAND TOTAL	1,57,87,914	1,61,00,000	1,61,00,000	1,65,00,000	Revised based on the actuals of the first eleven months of 1903-1904.
Provincial share	78,93,967	80,50,000	80,50,000	73,18,000	Provincial share reduced from $\frac{1}{4}$ to $\frac{1}{5}$ under the new settlement.

VI.—Provincial Rates—

Public works cess	46,11,599	46,50,000	46,00,000	46,74,000	Increase over the revised due to the completion of revaluations in the districts of Birbhum, Nadia, Khulna, Rangpur, Tippera, Cuttack, and Balasore.
General rates for management of private estates	1,43,397	1,43,000	1,50,000	1,51,000	Increase due to inclusion of certain estates under the Court of Wards in the districts of Rangpur, 24 Parganas and Backergunge.
Total	46,73,996	49,08,000	49,50,000	50,25,000	Revised based on the actuals of the first nine months of 1903-1904.

VII.—Customs—

See Customs—Miscellaneous	2,30,767	2,50,000	2,41,000		Revised based on the actuals of the first ten months of 1903-1904.
Warehouse and wharf-rent	6,507	8,000	7,000		
Fees for registration of cargo boats	193				
Other items	800	2,000	2,000		
Total Provincial	2,38,267	2,60,000	2,50,000		The receipts and charges of the Customs Department have been Imperialised under the new Provincial settlement.

VIII.—Assessed Taxes—

Deductions by Government from salaries and pensions, &c.	5,16,963	4,50,000	4,65,000	4,64,000	
Deductions by Government from interest on Government securities	10,846	17,000	17,000	17,000	
Deductions from salaries, &c., paid by local authorities or companies	63,963	50,000	48,000	48,000	
Deductions from profits of Railway Companies	3,948	4,000	4,000	4,000	
Income-tax on securities of local authorities or companies	86,354	80,000	85,000	86,000	
Ordinary collections	51,36,180	41,51,000	43,04,000	46,04,000	
Fines	53,733	22,000	16,000	16,000	
Miscellaneous	18,718	15,000	11,000	11,000	
Total	86,82,183	80,70,000	80,50,000	81,50,000	Revised based on the actuals of the first ten months of 1903-1904. Budget provides for an increase of 3 lakhs over the revised estimate in consideration of the annual increase of revenue under this head.
Provincial share	29,24,688	25,25,000	24,75,000	13,87,000	Provincial share reduced from one-half to one-fourth under the new settlement.

IX.—Forests—

HEADS.	1903-1904.	1902-1903.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
I.—Timber and other produce removed from the forests by Government agency ..	Rs. 1,32,125	Rs. 3,60,000	Rs. 10,00,000	Rs. 3,50,000	The increase is due to anticipated increase in fellings in the Muza Division and is also justified by the results of the partial conscriptions and extension of areas under the Bombay Forestry Settlement.
II.—Timber and other produce removed from the forests by consumers or purchasers ..	10,00,000	2,50,000		2,50,000	
III.—Drift and waif-wood and collected forest produce ..	8,982	8,700	7,000	8,000	
V.—Miscellaneous ..	62,671	20,000	20,000	21,000	
Total ..	12,03,778	12,00,000	10,27,000	11,20,000	
Provincial share ..	6,01,889	6,00,000	5,13,500	5,60,000	Provincial share reduced from one-half to one-fourth under the new settlement.

X.—Registration—

Fees for registering documents ..	16,12,000	16,25,000	15,84,000	16,20,000	The decrease is revised to due to smaller receipts from registration fees under Act III of 1877.
Fees for copies of registered documents ..	21,200	20,000	22,000	20,000	
Miscellaneous ..	46,223	44,000	52,000	50,000	
Total ..	16,79,423	17,00,000	16,70,000	17,00,000	
Provincial share ..	8,39,711	8,50,000	8,35,000	8,50,000	Registration charges made wholly Provincial under the new settlement. Hitherto they have been divided equally between Imperial and Provincial.

XII.—Interest—

Class I.—Interest on advances to cultivators— On advances to cultivators under Land Improvement Loans Act ..	16,885	60,000	60,000	60,000	Based on the estimated outstanding means balances.
On advances to cultivators under Agricultural Loans Act, XXII of 1901 ..	26,729				
.. II.—Interest on advances under Special Law— On drainage and embankment advances ..	21,712	60,000	60,000	52,900	
.. III.—Interest on loans to landholders, &c ..	2,023	7,000	2,000	2,000	
.. IV.—Interest on loans to Municipal and other public corporations (excluding Presidency Corporations) ..	1,57,970	1,86,000	1,78,000	1,96,000	Based on actuals.
Interest on Government securities ..	12,283	14,000	12,000	12,000	
Miscellaneous— Interest on arrears of public works loan ..	27,540	60,000	30,000	60,000	
on the capital cost of His Honour the Lieutenant-Governor's household furniture, &c ..	1,220	1,000	1,000	1,000	
Interest on sundry embankment recoveries ..	1,617	2,000	1,500	1,500	
Other items ..	4,065	4,000	5,000	5,000	
Total Miscellaneous ..	43,401	67,000	46,000	68,000	
GRAND TOTAL ..	2,47,228	2,60,000	2,38,000	2,66,000	

XVIA.—Law and Justice—Courts of Law—

Sale-proceeds of unclaimed and escheated property ..	20,805	20,000	27,000	20,000	Based on average actuals. The decrease is revised to due to smaller receipts from estate's fees.
Court-fees realised in cash ..	61,540	60,000	55,000	60,000	
General fees, fines and forfeitures ..	6,78,714	6,50,000	6,60,000	6,78,000	Based on the average actuals of the last three years. The decrease in the revised is for smaller receipts from fees under High Court and magisterial fees.
Plendship examination fees ..	24,341	20,000	25,000	35,000	
Miscellaneous fees and fines ..	1,222	1,000	1,000	1,000	
Miscellaneous ..	18,175	15,000	20,000	11,000	Based on actuals.
Total ..	2,10,900	2,00,000	2,27,000	2,07,000	
					Revised based on the actuals of the first ten months of 1903-1904.

XVIB.—Jails—

Jails ..	21,491	17,000	20,000	20,000	Revised based on the actuals of the first ten months of
Jail manufactures ..	11,22,793	14,96,000	11,80,000	11,80,000	
Total ..	12,08,284	14,17,000	13,00,000	13,00,000	

XVII.—Police—

HEADS.	1902-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Police supplied to Municipal, Cantonment and Town Funds ...	Rs. 12,199	Rs. 9,000	Rs. 10,000	Rs. 10,000	The increase is due to larger recoveries for punitive police.
Police supplied to Public Departments, private companies and persons, and Punitive Police ...	74,130	80,000	80,000	70,000	
Presidency Police ...	92,605	90,000	93,000	90,000	
Recoveries on account of village police ...	4,302	6,000	4,000	5,000	
Fees, fines and forfeitures ...	19,300	21,000	20,000	20,000	Revised based on the first nine months' actuals of 1903-1904.
Cash receipts under the Arms Act ...	81	...	...	...
Miscellaneous ...	13,235	5,000	10,000	10,000	
Total ...	7,15,484	1,84,000	1,94,000	2,03,000	

XVIII.—Marine—

Sale-proceeds of vessels and stores ...	4,164	2,000	2,000	2,000	
Registration and other fees ...	63,793	81,000	80,000	67,000	
Pilotage receipts { Calcutta ...	11,08,500	11,00,000	...	11,10,000	
Chittagong ...	16,914	20,000	1,50,000	17,500	
Lead-money for Volunteers ...	13,720	14,000	...	14,000	Estimates based on actuals.
Total ...	18,06,084	11,89,000	12,18,000	12,11,500	
Miscellaneous—					
Deductions for mess-money ...	12,184	12,000	13,000	12,500	
Contribution to Life-boat establishment, Goalundo ...	230	300	...	200	
Marine Survey ...	38,402	39,800	38,000	38,500	
Overtime fees ...	6,826	...	...	...
Miscellaneous receipts of the Shipping office ...	6,517	30,000	15,000	18,500	
Other items ...	3,878	
Fees for certificates of inland vessels under Act VI of 1884 ...	918	...	...	...
Total Miscellaneous ...	67,544	73,000	66,000	60,500	
GRAND TOTAL ...	12,73,628	12,71,000	12,84,000	12,81,000	

XIX.—Education—

Fees, Government Colleges { General ...	2,67,650	2,55,000	2,57,000	2,70,000	
Professional ...	51,010	51,000	53,000	55,000	
General ...	3,84,820	3,37,000	3,32,000	3,37,000	
Fees, Government Schools { Special ...	12,144	13,000	12,000	12,000	
Contributions from Native States, private persons and Municipalities ...	8,840	12,000	8,000	10,000	Revised based on the first nine months' actuals of the year.
Income from endowments ...	1,000	2,000	2,000	2,000	
Miscellaneous ...	53,331	58,000	58,000	55,000	
Total ...	7,08,000	7,28,000	7,20,000	7,30,000	

XX.—Medical—

Medical School and College fees ...	54,722	60,000	60,000	55,000	
Hospital receipts (receipts from paying patients) ...	89,471	95,000	92,000	90,000	
Lunatic Asylum receipts ...	25,000	18,000	18,000	18,000	
Medicines sold by Civil Surgeons ...	80	...	100	...	
Contributions from Municipalities and private persons ...	45,814	45,000	...	40,000	Revised based on the first nine months' actuals of the year. Budget follows the revised.
Miscellaneous ...	9,911	7,000	68,000	7,000	
Total ...	2,23,687	2,25,000	2,30,000	2,15,000	

XXI.—Scientific and other Minor Departments—

Botanical and other public garden receipts ...	3,220	3,000	3,000	3,300	Estimate based on the average actuals of last three years. Estimate based on actuals.
Veterinary and station receipts ...	12,136	12,000	16,000	14,000	
Cinchona plantation receipts ...	2,15,694	2,08,000	1,90,000	2,13,000	
Experiments on account of experimental cultivation ...	305	500	500	300	
Migration fees ...	23,021	35,000	25,000	30,500	Ditto.
Examination fees ...	3,309	4,300	5,500	3,900	
Miscellaneous ...	...	200	...	...
Total ...	2,04,441	2,67,000	2,60,000	2,62,000	

XXII.—Receipts in aid of Superannuation—

Family subscriptions of Native members of the Government Civil Service ...	1,653	2,000	2,000	2,000	Estimates follow both the actuals of 1902-1903 and the revised for 1903-1904.
Contributions of officers lent to Municipalities or Corporations ...	19,406	14,000	...	20,000	
Contributions of officers lent to foreign service ...	47,700	40,000	81,000	43,000	
Contributions of persons employed by the Court of Wards ...	11,979	10,000	...	13,000	
Deductions from Marine Pension Fund ...	8,478	8,000	10,000	9,000	Revised based on the actuals of the first nine months of 1903-1904.
Refunds of Gratuities ...	523	...	...	...
Total ...	10,637	73,000	93,000	87,000	

XXIII.—Stationery and Printing—

HEADS.	1903-1903.	1903-1904.		1904-1904.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Stationery receipts	Rs. 1,485	Rs. 1,500	Rs. 2,000	Rs. 2,000	
Sale of Gazettes and other publications	91,335	92,800	92,000	94,000	
Other Press receipts	44,847	51,000	44,000	45,000	
Total	1,37,667	1,45,300	1,38,000	1,41,000	The decrease in revised is due to smaller recoveries for value of printing work done for Local Funds, &c.

XXV.—Miscellaneous—

Unclaimed deposits	6,02,799	5,33,000	6,98,000	6,17,000	Revised represents the amount likely to lapse to Government at the close of 1903-1904
Treasure-trove	7,593	12,000	500	7,000	
Sale-proceeds of Durbar presents	45,870	60,000	35,000	10,000	Revised based on actuals. The decrease in the budget is due to the adjustment under orders of the Government of India of the sale proceeds of old stores of the Revenue Departments under the departments concerned. This represents the sale-proceeds of lands relinquished by the Assam-Bengal Railway provisionally adjusted here, since transferred to the Public Works Department. Estimate reduced as no audit fee will be recovered from the Calcutta Corporation, whose account will in future be audited by Messrs. Lock and Lewis.
Sale of lands and houses, &c.	25,344	...	...	...
Fees for Government audits (of Municipal and Excluded Local Funds)	70,295	57,000	50,000	48,000	
Rents	23,555	22,000	22,500	22,000	
Miscellaneous fees, fines, and forfeitures	10,711	8,000	57,000	7,000	The actuals and the revised include certain special receipts in Jalpaiguri in account of fees for survey of tea lands. The estimate for 1903-1904 is based on the actuals of previous years.
Contributions	35,732	30,000	25,000	35,000	Estimate based on the actual demands taken from the Registrar of the Assam, General Office.
Miscellaneous—					
Fees and fines of Revenue Courts	73,275	70,000	...	73,000	
Recoveries of Law charges other than those in pauper suits	15,873	10,000	...	10,000	
Receipts of the steamer <i>Chaffinch</i> in Chittagong	4,530	3,000	...	5,000	
Value of mathematical stores returned	500	1,000	1,77,000	500	
Sundry receipts—Circuit-house	283	500	...	500	
Miscellaneous receipts on account of Government Management of Ward Estates	211	...	...	...
Sale of elephants	5,710	4,000	...	20,000	
Other items	46,265	50,500	...	45,000	Larger receipts anticipated from the sale of elephants in consequence of recent extensive captures in Assam. Increase in the revised due to special adjustment of the recoveries on account of sale proceeds of tents and furniture relating to the Delhi Durbar Camp.
Total Miscellaneous	1,47,076	1,30,000	1,77,000	1,51,000	Revised based on nine months actuals.
GRAND TOTAL	9,75,078	8,50,000	10,56,000	9,13,000	

XXIX.—Major Works—(Direct Receipts)—

Orissa Canals	4,00,502	4,23,000	4,40,000	4,23,000	The opening of the Bengal Nagpur Railway appears to have affected the revenue of these canals.
Madras Canals	2,24,150	2,15,000	2,15,000	1,87,000	
High Tidal Canal	41,050	47,000	42,000	40,000	The larger income in 1902-1903 was chiefly due to larger collections from water-rate on account of unusual extension of irrigation in the Madras and Orissa Canals for the rice crop of 1902. The budget is based on the average of the past 5 years.
Some Canals	16,50,516	11,64,000	12,44,000	12,27,000	
Total	21,21,508	18,49,000	19,41,000	18,77,000	

XXX.—Minor Works and Navigation—

HEADS.	1902-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT.					
<i>Irrigation and Navigation Works.</i>					
Works for which Capital and Revenue accounts are kept—					
Orissa Coast Canal	34,667	37,000	30,000	36,000	
Baran Canals	674	1,000	500	500	
Calcutta and Eastern Canals	3,76,900	4,25,000	3,75,000	3,80,000	The decrease is due to falling off in trade.
Total	4,12,241	4,63,000	4,05,500	4,02,500	
Works for which only Revenue accounts are kept—					
Madia Rivers	91,072	81,500	92,000	92,000	
Ganghata and Buxi Khal	5,200	4,500	4,500	4,500	
Total	96,272	86,000	96,500	96,500	
Works for which neither Capital nor Revenue accounts are kept—					
Eden Canal	24,550	25,000	25,000	25,000	
Tour do.	208	200	200	1,000	
Total	24,758	25,200	25,200	26,000	
Total Irrigation and Navigation Works	5,33,256	5,84,200	5,28,000	5,25,000	
<i>Agricultural Works.</i>					
Works for which neither Capital nor Revenue accounts are kept—					
Government embankments	10,992	6,500	8,000	8,000	
Takavi embankments under contract	5,087	7,300	4,000	4,000	
Total Agricultural Works	16,079	13,800	12,000	12,000	
Total in charge of the Public Works Department	5,49,335	6,00,000	5,40,000	5,40,000	
IN CHARGE OF CIVIL DEPARTMENT.					
Recovery on account of lands benefited by embankments	87,016	90,000	1,02,000	1,07,000	Budget based on actual demand.
Capitalized maintenance charges of the Rajapur drainage system	25,801	18,000	18,000	18,000	
Miscellaneous receipts of the—					
Howrah drainage .. .. .	.....	1,000	.....	.....
Rajapur ditto .. .. .	.....	.....	.....	.....
Total in charge of the Civil Department	1,12,817	1,09,000	1,20,000	1,25,000	Revised based on the actuals of nine months.
GRAND TOTAL	6,62,152	7,09,000	6,60,000	6,65,000	

XXXII.—Civil Works—

IN CHARGE OF THE PUBLIC WORKS DEPARTMENT.					The increase in the actuals of 1902-1903 was chiefly due to larger profits from the Darjeeling-Himalayan Railway. The revised estimate includes Rs. 2,15,000 on account of sale-proceeds of No. 22, Chowringhee (residence of the Commissioner of Police, Calcutta), and also takes larger receipts into account from the profits of the Darjeeling-Himalayan Railway.
Total gross receipts	2,46,627	2,00,000	4,67,000	2,00,000	
IN CHARGE OF THE CIVIL DEPARTMENT.					Budget based on the average actuals of last three years.
Tolls on ferries	2,43,631	2,52,000	2,41,000	2,48,000	
Cemetery receipts	2,847	4,000	1,000	2,000	
Receipts from watering bungalows and encamping grounds	4,812	8,000	8,000	8,000	
Total	2,51,290	2,64,000	2,50,000	2,58,000	Revised based on the actuals of 1902-1903 and those of the first eight months of 1903-04.
GRAND TOTAL	4,97,917	4,64,000	7,17,000	4,58,000	

APPENDIX B.

Bengal Provincial Expenditure, in detail, of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

The remarks in column 6, except when otherwise specially explained, refer to difference between columns 3 and 5.

1.—*Refunds and Drawbacks—*

HEADS.	1903-1904.	1903-1904		1904-1905.	REMARKS.
	Actuals.	Sanctioned Estimate.	Revised.	Budget.	
1	2	3	4	5	6
Land Revenue (one-fourth)	Rs. 62,712	Rs. 20,000	15,000	20,000	provincial share } Under the terms of the new settlement. Wholly Provincial.
Stamp	1,19,868	1,20,000	1,26,000	80,000	
Excise	8,004	6,000	5,000	8,000	
Assessed Taxes	11,430	12,000	11,000	6,000	
For st	145	2,000	1,000	1,000	Ditto }
Registration	3,072	2,000	2,000	4,000	
Provincial Rates	18,140	10,000	10,000	10,000	
Customs (other than Export and Import duty)	9,630	15,000	12,000	...	Made wholly Imperial under the new settlement.
Total	2,30,600	1,87,000	1,88,000	1,86,000	Revised based on the actuals of the first eight months of the year.

2.—*Assignments and Compensations—*

Melihans	1,55,514	1,70,000	1,63,000	1,70,000	Revised based on actuals of eight months.
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3.—*Land Revenue—*

Charges of District Administration— General Establishment	27,44,517	29,08,000	27,12,000	29,81,000	The decrease in revised is due to savings under salaries and establishment and to the additional provision for the re-organization of the Subordinate Executive Service not having been utilized. Budget includes a provision of Rs. 20,000 for reorganization of the Subordinate Executive Service, and Rs. 20,000 for Additional Deputy Collectors and Magistrates.
Subdivisional Establishment	1,19,728	1,23,600	1,21,000	1,24,000	
Partition Establishment	—24,004	—1,000	...	—2,000	
Process-serving Establishment	1,57,049	2,98,000	1,50,000	2,50,000	
Record-room (or copy-making) establishment	14,181	15,000	16,000	18,000	Increase due to additional posts for Baran, Howrah, Dumka and Manchi.
Survey of waste lands (Establishment)	24,701	16,000	25,000	26,000	
Management of private estates under Act X of 1893	25,827	26,000	26,000	27,000	
Lump provision for increase of pay of Ministerial Establishment ... ..	...	...	...	1,60,000	
Deduct probable savings ... ..	...	...	...	35,00,000	
Total charges of District Administration	31,45,999	35,50,000	31,00,000	34,53,000	
Charges on account of Land Revenue collections	1,132	1,000	1,000	1,000	
Management of Government estates— Collection of Revenue	7,97,012	3,22,000	2,50,000	2,50,000	The increase in revised is under Establishment and Allowance.
Outlay on improvements	2,31,160	2,03,000	1,22,000	...	
Total	8,78,192	5,25,000	3,81,000	5,55,000	Estimate based on the estimate of collections.
Survey and Settlement— Controlling office (survey)	10,621	...	...	...
Other survey operations, including Bengal Drawing Office	85,478	1,29,160	3,10,000	1,29,214	
Minor settlement operations	41,730	...	...	60,000	
Other ditto	—1,27,011	2,71,000	...	1,30,768	
For rounding ... ..	...	—100	...	...
Total	10,204	4,30,000	3,10,000	3,00,000	
Land Records and Agriculture— Superintendence	66,473	15,000	13,600	54,000	Increase in revised is for temporary establishment.
District charges	24,057	25,000	...	3,000	
Total	1,00,530	40,000	13,600	91,000	
GRAND TOTAL	38,15,027	41,15,000	4,12,000	41,00,000	

6.—Stamps—

HEADS.	1903-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned Estimate.	Revised.	Budget.	
1	2	3	4	5	6
Superintendence—					
Presidency Executive Establishment ...	Rs. 90,090	Rs. 89,840	Rs. 86,000	Rs. 91,904	
District Establishment ...	6,074	6,792	8,000	7,000	
Deduct—For rounding ...		96,041		—808	
Total ...	96,094	96,000	94,000	99,000	
Charges for the sale of general stamps—					
Discount on sale of one-anna stamps ...	27,673	28,000	28,000	28,000	
Ditto bills of exchange or hundies ...	4,887	6,000	5,000	5,000	
Ditto other general stamps ...	1,78,419	1,78,000	1,07,000	1,73,000	The decrease in the revised is due to smaller payment of discount.
Charges on sale of court-fee stamps—					
Discount on sale of adhesive stamps ...	97,426	1,00,000	90,000	90,000	
Ditto stamps for copies ...	9,064	10,000	9,000	9,000	
Establishment for sale of stamps ...	30				
Discount on plain paper ...	18,837	18,000	18,000	18,000	
Stamp paper supplied from Central Stores ...	3,03,180	3,04,000	3,33,000	3,40,000	
Grand Total ...	7,28,915	8,04,000	7,53,000	7,60,000	
Provincial share ...	5,40,686	6,03,000	5,65,000	5,90,000	Provincial share reduced from 5 to 4 under the new settlement.

7.—Excise—

	Rs.	Rs.	Rs.	Rs.	
Superintendence ...	80,288	81,000	77,000	79,000	
Presidency establishment—					
Calcutta Collectorate ...	90,927	90,000	65,000	60,000	
Inspection and Prevention ...		27,000	20,000	20,000	
District Executive establishment—					
Badar establishment ...	1,15,537	1,25,114	4,90,000	1,22,016	Increase based on the actuals of 12 months ending 30th September 1903.
Inspection and prevention ...	2,31,479	2,20,000		2,29,236	
Allowances ...	1,25,580	1,32,000		1,34,300	
For rounding ...		4,88,400		4,93,532	
Total ...		4,89,000		4,93,000	
Distilleries—					
Presidency establishment ...	7,984	10,500	8,000	10,000	
District establishment ...	1,33,754	1,38,500	1,31,000	1,43,000	
Total ...	7,76,528	8,12,000	8,00,000	8,30,000	
Provincial share (one-half) ...	3,47,764	4,06,000	4,00,000	3,59,000	Provincial share reduced from 4 to 3½ths from 1-04-1905.

8.—Provincial Rates—

	3,03,944	3,84,000	3,12,000	3,34,000	
Collection of rates and cesses ...					
Valuation and revaluation ...	1,79,877	1,98,000	1,44,000	1,67,000	Reduced with reference to the average expenditure of the past three years. Estimate framed according to requirements.
Total ...	4,83,821	5,82,000	4,56,000	5,01,000	Revised based on the actuals of nine months. The decrease is due to smaller process-seeing charges and to the additional provision for re-valuation not having been utilized.
Deduct—Proportion debitable to Local for cost of road-cess collection (1/10th of gross charges) ...	3,19,355	3,85,000	3,04,000	3,33,000	
Deduct—1/10th share of recoveries on account of collection of arrears cesses ...	46,389	60,000	43,000	54,000	
Deduct—Contribution for pension of the cess-collecting establishment (1/4 of 1/2 of the pay) ...	9,441	9,000	9,000	10,000	
Deduct—Amount of road-cess refunds ...		5,000			The adjustment is now made under Melands.
Total ...	1,08,445	1,50,000	1,00,000	1,04,000	

9.—Customs—

HEAD.	1902-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Calcutta—					
Salaries	Rs. 67,145	Rs. 65,000	Rs. 67,000	Rs.	
Collector's establishment	1,76,686	2,00,000	1,77,000	.....
Appraising	83,345	87,700	84,000	.....
Preventive	3,60,007	3,60,000	3,60,000	.....
Allowances	1,21,908	1,61,000	1,43,000	.....
Supplies and services	27,060	27,550	22,000	.....
Contingencies	20,703	28,000	28,000	.....
Total Calcutta	8,07,749	8,61,000	8,10,000	.....
Balance	6,815	5,100	7,000	.....
Chittagong	21,080	24,000	3,000	.....
Outlook	1,965	2,000	5,000	.....
Leave	608	700	700	.....
Post	1,711	1,800	2,000	.....
GRAND TOTAL	8,90,700	10,00,000	9,60,000	.....	Revised based on the first nine months' actuals of the year. Made wholly Imperial under the new settlement.

10.—Assessed Taxes—

Calcutta establishment	75,707	75,000	77,000	73,070	Decrease owing to the reduction in establishment consequent on the reduction in the number of assessors. Decrease in revised is due to the reduction in the assessing establishment and smaller expenditure on travelling allowance owing to reduction in the number of assessors.
District	1,35,479	1,37,000	1,00,000	91,000	
Total	2,11,186	2,12,000	1,77,000	1,64,070	
Provincial share one-half	1,00,593	1,03,000	88,500	82,035	Provincial share reduced from 4 to 3 from 1902-1903.

11.—Forests—

A.—Conservancy and Works.					
I.—Timber and other produce removed from the forests by Government agency	61,676	1,10,700	1,17,700	1,23,000	No payment of profits from the Forests will be due. Revised includes provision for the purchase of a house in Chittagong for residence and office of Divisional Officer. The increase is due to increase in reservation and delimitation in Chittagong and for creaser cutting.
II.—Timber and other produce removed from forests by consumers or purchasers	63,816	60,900		70,800	
III.—Drift, waif-wood and confiscated forest produce	2,450	2,000	2,100	2,000	
V.—Rent of leased forests and payments to shareholders in forests managed by Government	18,575	...	...	.....
VI.—Live-stock, stores, tools and plants	20,870	18,800	15,400	19,000	
VII.—Communications and buildings	20,116	20,500	1,10,100	20,500	The increase is due to increase in reservation and delimitation in Chittagong and for creaser cutting.
VIII.—Organisation, improvement and extension of forests	64,089	70,800	75,800	94,800	
IX.—Miscellaneous	4,084	5,100	5,900	6,800	
Total A.—Conservancy and Works	2,91,879	3,71,000	3,72,000	4,08,000	
B.—Establishments.					
I.—Salaries	2,75,521	2,81,000	2,84,000	2,84,000	
II.—Travelling allowances	67,373	60,000	60,000	60,000	
III.—Contingencies	15,716	15,100	14,500	14,500	
Total B.—Establishments	3,58,610	3,56,100	3,58,500	3,58,500	
GRAND TOTAL	6,50,489	7,27,100	7,30,500	7,66,500	
Provincial share	3,25,244	3,63,550	3,65,250	3,83,250	Provincial share reduced from 4 to 3 from 1902-03.

12.—Registration—

HEADS.	1901-1902.	1902-1903.		1903-1904.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Superintendence	Rs. 62,620	Rs. 54,000	Rs. 53,000	Rs. 44,000	
District charges—					
Calcutta	21,777	22,800	21,000	23,500	Budget includes a provision of Rs. 8,000 to meet the cost of printing money to be distributed, a charge which has hitherto been paid by Sub-Registrars.
Special Sub-Registrars	2,17,000	2,32,900	2,17,000	2,19,500	
Rural Sub-Registrars	6,50,660	6,50,000	6,61,000	6,62,000	
Ex-officio Sub-Registrars	1,400	1,500	2,000	1,500	The budget includes Rs. 2,000 for additional expenditure that might be incurred on account of new registration offices that will be erected during the year.
Add—For rounding .....	.....	.....	.....	500	
Total district charges	9,00,604	9,06,000	9,01,000	9,10,000	
GRAND TOTAL	9,62,630	9,60,000	9,54,000	9,70,000	Revised based on the first nine months' actuals of the year.
Provincial share (one-half)	4,76,315	4,80,000	4,77,000	4,70,000	Made wholly Provincial from 1904-1905.

13.—Interest on Ordinary Debt—

Interest on Provincial Advance and Loan Account	2,01,879	2,09,000	2,01,000	2,23,000	Based on the estimated mean outstanding balance of loans carrying interest at 3½ per cent. per annum.
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15.—Post Office—

District Post Charges	2,004	6,000	6,000	Made Imperial from 1904-1905.
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18.—General Administration—

Salary of Lieutenant-Governor	1,02,407	96,000	1,06,000	96,000	The increase in the Revised is due to the payment of the arrears salary of the late Sir John Woodburn and to the Chief Commissioner of Assam having drawn his pay from 1st to 29th July, 1903, in Calcutta.
Staff and household of Lieutenant-Governor	4,85,624	44,000	68,000	75,000	The increase is due to the higher rate of Household Allowance of His Honour the Lieutenant-Governor and the expenditure on Rates and Taxes having been debited to this head instead of to Tour grant.
Tour and establishment grant .....	.....	.....	54,000	40,000	This represents the fixed contract grant for tour expenses and petty household establishment of His Honour the Lieutenant-Governor. Revised includes an adjustment of Rs. 14,000 for purchase of furniture and tents for His Honour's use.
Tour expenses	50,840	55,000	4,000	4,000	The decrease is nominal and is due to change in the classification in the accounts. Provision has been made here by transfer of a portion of the amount provided for under "Civil Secretariat Allowances" to meet expenses and allowances of the Secretaries and others of the Secretariat staff accompanying His Honour the Lieutenant-Governor on tour other than to and from a hill station.
Legislative Department	59,472	66,000	70,000	68,000	The increase in the Revised is due to larger expenditure under Contingencies.
Civil Secretariats	5,71,797	5,80,000	5,73,000	5,73,000	The increase in the Revised is due to salaries of officers on special duty.
Board of Revenue Commissioners	2,88,197	3,20,000	3,20,000	3,01,000	The increase in the Revised is due to privilege leave allowances and larger expenditure under Contingencies of the steam boat establishment at Chittagong and Dacca. In the budget a provision of Rs. 57,000 has been made for the cost of a new steamer for the Commissioner of the Dacca Division.
.....	6,01,781	5,62,000	6,36,000	6,40,000	
Civil Offices of Account and Audit	48,888	145,000	44,000	50,000	The increase is for the provision of Rs. 4,000 for the local allowance of the Examiner of Local Audit establishment as well as for small increase under travelling allowance for longer tours by the Examiner.
Total	22,04,689	17,66,000	18,70,000	18,56,000	

19A.—Law and Justice—Courts of Law—

HEADS.	1902-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
High Court—					
Judges	Rs. 6,6370	Rs. 7,10,000	Rs. 7,00,000	Rs. 7,84,000	The increase in the budget due to provision for an Additional Police Judge.
Original Side	2,18,059	2,57,000	2,45,800	2,61,000	The saving in the revised is chiefly under Malaria. The budget provides for additional establishment.
Appellate Side	2,84,147	2,64,000	2,87,700	2,67,000	Increase in the budget due to larger provision for additional establishment both permanent and temporary and contingencies.
Copyists' Establishment	81,734	81,000	63,000	64,000	
Reporters	24,344	24,400	23,800	23,000	Provision has also been made for Law Reports.
Total	12,36,564	13,16,000	12,99,000	13,44,000	
Law Officers—					
English Law Officers	98,628	1,00,000	91,600	90,600	The decrease in the revised is due to savings in the pay of Government pleaders and fees to pleaders in criminal cases.
Legal Remembrancer and High Court Pleaders	80,631	80,000	61,000	80,000	
Mutual Establishments	1,70,879	1,80,000	1,71,400	1,73,000	The decrease is for smaller provision for fees to pleaders in criminal cases and civil suits.
Total	3,47,049	3,72,000	3,56,000	3,56,000	
Coroner's Court	7,310	8,000	8,000	9,000	Provision has been made in budget for electric fans.
Presidency Magistrates—					The increase in budget due to provision for no additional Presidency Magistrate and temporary establishment.
Calcutta Police Court	70,767	73,000	70,000	67,000	
Civil and Sessions Courts—					
District and Sessions Judges	12,00,445	12,01,000	12,70,000	12,95,000	The decrease in the revised is under Malaria and to some utilisation of the provision for chaudhars. Budget includes provision for additional establishment.
Subordinate Judge	6,48,883	6,66,000	6,36,000	6,37,000	The provision for temporary sub-judges has been omitted from the revised and the budget.
Munsifs	17,03,692	16,94,000	17,23,000	17,10,000	Larger provisions for 6th grade munsifs and temporary establishment accounts for the increase in the revised and the budget.
Allowance	31,656	30,000	30,000	32,000	
Supplies and Services	4,40,970	4,60,000	4,60,000	4,60,000	Decrease due to smaller provision for remuneration to copyists and diet of witnesses.
Contingencies	1,47,710	1,08,000	1,50,000	1,67,000	Increase due to provision for grant of savings in the contract grant.
Process-serving Establishment	7,67,973	8,00,000	7,63,000	7,78,000	Provision made according to local requirements.
Deduct—For anticipated savings					
Total	59,19,306	61,22,000	60,20,000	60,65,000	Saving in the revised mainly under Malaria and partly under Contingencies.
Presidency Courts of Small Cause	1,82,066	1,74,000	1,61,000	1,78,000	
Criminal Courts—					
General Establishment	23,68,787	25,18,000	23,20,000	24,80,000	
Subdivisional Establishment	1,18,728	1,23,000	1,21,000	1,24,000	
Process-serving Establishment	1,31,999	1,26,000	1,28,100	1,29,000	Two-fifths of the total cost provided under this head and one-fifth under Land Revenue.
Tributary Mahals, Orissa	1,440			3,000	
Total	26,21,904	27,77,000	25,53,000	27,44,000	
Pleadership Examination charges	10,000	12,000	11,000	12,000	
Refunds	83,107	77,000	80,000	80,000	
Large provision for increase of pay of ministerial establishment				2,50,000	Estimate based on actuals.
Total				1,01,50,000	
Deduct—Probable savings				1,50,000	
GRAND TOTAL	96,54,799	98,39,000	96,31,000	1,00,00,000	

19B.—Jails—

HEADS.	1902-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate	Revised.	Budget.	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Superintendence	52,705	52,000	53,000	53,000	
Establishments—					
Superintendents and Jailors	2,46,587	2,43,000	2,45,000	2,50,000	
Medical Establishment	18,754	38,000	35,000	38,000	
Church, Educational and Mechanical Establishments	1,377	240	1,300	1,000	
Warden Establishment	2,10,550	2,17,760	2,12,000	2,19,000	
General and other Establishments	13,940	13,000	14,000	14,000	
Petty Charges	6,62,035	6,50,000	6,31,000	6,50,000	
Hospital Charges	87,946	85,000	77,000	85,000	
Clothing and Bedding of Prisoners	1,08,778	1,60,000	150,000	165,000	
Sanitation Charges	37,221	37,000	37,000	35,000	
Charges for moving prisoners	58,761	51,000	62,000	67,000	
Miscellaneous Services and Supplies	1,11,654	1,22,840	99,000	1,08,000	Estimate based on local requirements.
Allowances	10,502	9,000	10,000	10,000	
Contingent Charges	40,484	45,000	42,000	44,000	
Extraordinary Charges for Live-stock and Tools and Plant	23,422	24,280	20,000	24,000	
Charges for Police Custody	13,121	13,880	14,000	14,000	
Deduct—For rounding					
Total Jails	17,16,542	16,09,000	16,32,000	17,07,000	
Jail Manufactures	9,73,560	11,60,000	9,68,000	9,73,000	
Refunds	256	1,000	...	1,000	
GRAND TOTAL	26,90,358	28,00,000	25,90,000	26,80,000	Revised based on the actuals of first nine months of 1903-1904.

20.—Police—

Presidency Police—					
Police Commissioner (Superintendence)	66,933	63,000	65,000	65,000	Provision has been made for the local allowances of the Deputy Commissioner of Police and for annual increment of the Commissioner of Police.
Calcutta Police	7,09,829	8,48,080	7,54,300	8,32,500	The decrease in the revised is due to savings in the pay of the Police force and to the provision of Rs. 50,000 for reorganisation of the Calcutta Police not having been fully utilized.
River Police	10,337	10,000	10,000	10,000	
Salt Police	3,413	4,000	3,500	4,000	
Police Dead-house	883	1,000	1,000	1,000	
Refunds .....	...	10,000	...	4,000	
Deduct—For rounding					
Total	8,61,271	9,36,080	8,34,800	9,17,000	
Municipal Police	39,930	40,000	40,000	40,000	
Superintendence	1,67,677	1,89,000	1,68,000	1,68,000	The decrease in the budget is due to the appointment of a 1st grade Assistant Superintendent of Police in charge of the Special Branch in place of a District Superintendent.
District Executive Force—					
Salaries	4,47,068	4,78,000	4,70,000	4,55,000	
Police Force	30,37,327	30,25,000	31,25,000	31,20,000	The decrease in the revised and budget is due to omission of lump provision of 4 lakhs for Police reforms. A small sum has been included in the budget for Puni Police.
Training School for Sub-Inspectors	16,313	17,000	18,000	19,000	Revised and budget provide for revision of establishment.
Establishment	1,74,553	1,77,000	1,77,000	1,80,000	Provision has been made for increase in the pay of head establishment and for establishment for new steam-launch for Pabna and Tippera.
Hospital charges	36,036	37,000	42,000	37,000	
Allowances	2,30,561	2,44,000	2,38,000	2,44,000	
Supplies and Services	5,22,489	5,32,000	5,70,000	5,30,000	Increase in the revised is under hire of boats, petty construction, and repairs, &c. Budget provides for contingencies for contract contingencies.
Contingents	1,65,348	2,31,000	1,30,000	2,14,000	
Other Police	54,943	68,000	60,000	65,000	
Total	48,30,320	53,93,080	49,41,800	50,33,000	
Village Police	4,084	53,000	50,000	55,000	

90.—Police—concluded.

HEADS.	1892-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Special Police—	Rs.	Rs.	Rs.	Rs.	
South Lushai Hills Police	1,436	...	1,000	...	Transferred to Assam. Increased provision made for ordnance stores both in the revised and budget.
Bengal Military Police,	90,426	77,800	94,000	94,500	
Frontier Police, Chittagong	38,919	48,000	40,000	43,000	Increase in the budget is due to provision for additional police for Angul.
Frontier Police, Angul	28,850	25,000	29,000	33,500	
Upper Burma Police Depot	5,505	5,800	5,000	5,800	
Total	1,66,135	1,52,600	1,69,000	1,66,000	
Railway Police—					
East Indian Railway Police	55,530	60,000	60,000	60,000	
East Coast Railway Police	—1,915	1,400	...	...	Included in the estimates for Bengal-Nagpur Railway.
Eastern System Railway Police	89,497	93,900	95,000	1,00,000	Increase due to change of incumbent of the post of Assistant Inspector-General and to redistribution of grades.
Assam-Bengal Railway Police	5,267	6,000	4,000	6,000	
Bengal and North-Western and Tirhut State Railway Police	7,011	12,000	8,000	12,000	Increase due to redistribution of grades.
Bengal-Nagpur Railway Police	9,834	9,700	10,000	13,000	
Bengal Central Railway Police	4,420	8,000	4,000	6,000	Increased provision has been made for additional Police force.
Total	1,69,920	1,90,000	1,82,000	1,90,000	
Outle-pounds	1,198	1,000	1,000	1,000	
Refunds	11,469	14,000	15,000	10,000	
GRAND TOTAL	63,22,105	69,66,000	64,06,000	68,80,000	

91.—Marine—

Salaries and allowances of officers and men afloat ...	67,551	61,700	66,000	60,000	Estimate based on local requirements. Provision has been made for the completion of the new launch for the Engineer-Surveyor's Department.
Victualling of officers and men afloat ...	22,823	23,100	21,000	23,000	
Purchase of marine stores and coal for the building, repairs and outfit of ships and vessels	11,26,339	1,00,000	1,40,000	1,12,000	
Purchase and hire of ships and vessels	17,878	2,15,000	15,000	6,90,000	Budget includes 6½ lakhs for the cost of a new pilot-steamers to replace the Baranli.
Pilotage and pilot establishments	8,72,300	7,02,500	6,17,000	8,81,000	Budget based on probable requirements.
Marine establishments	87,817	88,900	89,000	1,00,000	Provision has been made in the budget for grant of over-time now to shipping officers. Budget follows the actuals.
Subsidies to steam-boat companies	23,900	24,500	23,900	25,000	
Miscellaneous	28,870	40,000	37,000	31,000	
State Yacht establishment	5,461	6,000	6,000	8,000	
Refunds	257	2,000	...	8,000	
Total	10,53,991	12,78,000	11,60,000	17,40,000	Revised based on actuals.

22.—Education—

HEADS	1903-1903.	1903-1904.		1904-1904.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Direction	Rs. 63,443	Rs. 77,700	Rs. 86,000	Rs. 87,600	The increase in the revised is due to privilege leave allowance; and that in budget to provision for an Assistant Director.
Inspection—					
Inspector of European Schools	17,866	18,000	19,000	18,700	Increase due to provision for Additional Deputy and Sub-Inspector and to the appointment of an Inspectress on higher pay.
Inspectors of other schools	8,20,276	3,40,000	3,20,000	3,43,300	
Total	8,44,140	3,58,000	3,45,000	3,62,000	
Government Colleges, General—					The budget includes provision for extension of the Ravenshaw College.
English Colleges—					
Arts Colleges	3,81,583	3,96,000	3,64,000	4,37,000	
Eden Hindu Hostel	80,619	81,000	88,000	52,000	Increase in budget due to provision for hostel charges.
Bethune College	36,629	36,000	36,000	35,000	
Oriental Colleges—					
Sanskrit College	33,275	38,000	33,600	37,000	Increase in budget due to provision for hostel charges.
Calcutta Madrasah	60,801	42,000	60,000	54,500	
Mihott Madrasah Hostel	4,779	4,500	4,500	4,500	
Expenditure on petty construction and repairs	10	—	—	—	
Ditto on furniture and apparatus	19,807	20,000	20,000	23,100	
Deduct—For rounding	—	5,76,100	—	—	
Total	5,50,440	5,75,000	6,41,000	6,75,000	
Government Colleges, Professional—					Increase in revised due to larger expenditure on chemicals and apparatus.
Law Colleges	10,405	9,400	9,000	9,400	
Civil Engineering College, Sibpur, Howrah	2,10,212	2,10,000	2,01,000	2,18,000	
Expenditure on furniture and apparatus	7,041	6,000	6,000	6,000	
Apparatus required for Agricultural class	—	—	—	—	
Total	2,27,721	2,31,000	2,76,000	2,34,000	
Government Schools, General	6,47,077	7,08,000	6,03,000	7,10,000	The decrease in the revised is due to provision for special grants for furniture for the Kuraoung Girls Boarding School, for Commercial Classes, for private schools, for assumption of charge of Northbrook School, and for opening practical and technical classes not having been utilised.
Ditto, Special	2,64,072	4,48,000	3,81,000	4,42,000	
Grants-in aid	7,23,760	7,71,000	8,31,000	7,68,000	The larger payments of grants to Primary Schools and of building grants, and the grant for purchase of furniture for Kinderzarten schools, account for the increase in the revised.
Scholarships	1,08,870	1,90,000	1,95,000	2,02,000	
Miscellaneous	70,010	2,08,000	79,000	86,800	The decrease in the revised is due to the non-utilisation of the grant of Rs. 1,75,000 for contribution to Provident Fund for teachers in primary schools. Budget does not repeat the grant in question.
Rebunds	6,320	2,800	2,000	5,000	
Lump provision for Educational reforms	—	2,14,000	—	—	
Add—For rounding	—	200	—	—	
GRAND TOTAL	31,12,790	37,84,000	34,00,000	35,19,000	

24.—Medical—

HEADS.	1903-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Medical Establishment—	Rs.	Rs.	Rs.	Rs.	
Superintendence	77,618	80,000	78,000	81,000	
District Medical Establishment	8,76,318	8,90,000	8,91,000	7,17,000	The budget provides Rs. 1,20,000 for improvement of the Indian Medical Service.
Reserve Medical Officers and Subordinates	10,778	30,000	21,000	20,000	
Total	6,70,914	6,99,000	6,90,000	8,18,000	
Hospitals and Dispensaries—					
Presidency Hospitals and Dispensaries—					
Medical College Hospital	1,57,391	1,50,000	2,33,000	1,57,000	Increase in the revised is on equipment of the Medical College Hospital.
General Hospital	2,14,004	2,17,800	2,38,000	2,42,000	Increased provision for Supplies and Services, and Rents, Rates and Taxes, &c. accounts for the increase in budget.
Campbell Hospital	79,263	82,800	79,000	94,000	The decrease in the revised is for smaller expenditure on Supplies and Services. The increase in budget is under Materials and Supplies and Services.
Albert Victor Asylum for Lepers	30,473	27,800	18,000	24,000	The decrease is under Supplies and Services.
Mufassal Hospitals and Dispensaries	55,304	77,000	64,000	73,000	
Grants to Mufassal Hospitals and Dispensaries	74,423	67,000	74,000	70,000	Provision has been made both in the revised and budget for larger grants caused by the increase in the number of dispensaries.
Total	6,01,763	6,31,000	6,13,000	6,60,000	
Sanitation and Vaccination	1,98,360	1,98,000	1,77,000	1,95,000	The decrease in the revised is under travelling allowance.
Grants for Medical purposes—					
Microscopical experiments in jails	...	2,000	...	...
Expenses during the prevalence of plague	71,007	8,20,000	67,000	85,500	The decrease in the revised is due to smaller outlay in connection with plague. Estimate based on the probable requirements.
Expenses during the prevalence of epidemics	1,616	5,000	2,000	3,000	
Expenses in connection with cholera inoculation	4,064	5,000	5,000	5,000	
Value of medical stores	3,525	1,000	6,000	2,500	
Grant to Leper Asylum, Parulua	...	...	...	4,000	
Total	82,666	2,33,000	90,000	101,000	
Medical Schools and Colleges—					
Medical College	1,77,200	1,78,000	1,80,000	1,80,000	
Medical Schools	1,31,420	1,40,000	1,32,000	1,44,000	
Total	3,08,620	3,24,000	3,01,000	3,24,000	
Lunatic Asylums	1,26,230	1,44,000	1,30,000	1,43,000	The decrease in the revised is for smaller expenditure under Salaries and Establishment.
Special Hospital	10,000	12,500	10,000	13,000	
Chemical Examiner	25,720	37,500	44,000	48,000	Increase in the revised due to entertainment of a probationary Chemical Examiner.
Reliefs	768	1,000	1,000	1,000	
Deduct for savings	...	...	...	—3,000	
GRAND TOTAL	24,26,231	22,76,000	21,78,000	23,00,000	

25.—Political—

HEADS.	1903-1904.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Entertainment of Envoys and Chiefs	Rs. 2,551	Rs. 1,500	Rs. 2,000	Rs. 2,000	The revised includes payment of Rs. 18,500 in connection with the demarcation of the boundaries of the Udaipur State.
Barbar presents and allowances to Vakils, &c.	2,700	17,000	17,000	18,000	
Miscellaneous	3,100	3,300	13,000	3,000	
For rounding ... ..	.....	200	.....	.....
Total	9,351	22,000	32,000	23,000	

26.—Scientific and other Minor Departments—

Veterinary and Stallion Charges	67,127	1,11,200	80,000	1,02,000	Smaller expenditure on the purchase of cattle and saving in the pay of Veterinary Assistants account for the decrease in the revised. The budget makes smaller provision for the purchase of cattle and petty construction and repairs, a portion of which is counter-balanced by the provision for the introduction of the Glanders and Farcy Act in Calcutta and Suburbs.
Provincial Museums	413	...	500	...	The charge for Darjeeling Museum is paid from the Darjeeling Improvement Fund.
Imperial Institute	65	500	...	...
Donations to Scientific Societies	8,000	8,000	8,000	8,000	
Experimental Cultivation	71,504	1,16,000	80,000	91,000	The decrease in the revised is due to the provision of the 50,000 for cattle-breeding farm at Pusa not having been fully utilized, while that in the budget is due to the omission of any provision, for grant to the Indigo Planters Association, and provision for smaller expenditure under Supplies and Services, &c., partly counterbalanced by the provision for an additional farm to demonstrate the value of irrigation and for Agricultural and Silk Experiments.
Cinchona Plantations	1,76,470	2,00,000	1,81,000	1,94,000	The decrease in the revised is due to no expenditure having been incurred for Dumsong Division.
Public Exhibitions and Fairs	2,654	8,000	6,000	5,000	
Botanical and other Public Gardens	1,38,538	1,28,000	1,38,000	1,38,000	
Emigration	21,372	28,000	22,000	28,000	
Inspector of Factories	26,388	27,000	27,000	28,000	
Census	1,184	1,500	1,000	1,000	
Cassioer, Statistical Memoirs	8,712	40,000	40,000	47,000	
Registration of Railway Traffic	8,733	8,500	8,500	9,000	
Registration of River-borne Traffic	8,733	8,500	4,000	5,000	
Provincial Statistics	17,185	15,700	17,000	23,000	
Examinations	4,303	4,500	4,500	4,500	Budget includes provision for establishment in connection with the collection of statistics of the value of land in Calcutta.
Inspector of Mines	-3,289	13,000	2,000	...	
Miscellaneous and Refunds	8,375	9,500	8,500	10,000	
Add—For rounding ... ..	.....	.....	.....	.....
Total	8,70,880	7,38,000	6,33,000	6,80,000	Revised based on nine months actuals of the year.

6.—*Superannuation*—

HEAD.	1903-1904.	1904-1905.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
Superannuation and retired allowances	Rs. 24,16,857	Rs. 25,00,000	Rs. 25,12,000	Rs. 26,00,000	Increased provision made to meet the annual growth of expenditure. Based on actuals.
Companions' allowances	15,556	15,000	15,000	15,000	
Gratuities	6,063	9,000	11,000	10,000	
Marine Department Pensions	22,073	24,000	30,000	32,000	
Refunds	300	.....		
Total	24,71,941	25,00,000	25,08,000	26,07,000	

30.—*Stationery and Printing*—

Stationery Office at the Presidency	1,86,479	1,08,000	1,70,000	2,13,000	Decrease in the revised is due to the additional provision for the revision of establishment of the office of the Superintendent of Stationery not having been fully utilized. Budget repeats the provision for establishment and makes a further provision for Supplies and Services, &c.
Ditto *purchased in the country	61,721	64,000	60,000	64,000	
Government Presses	4,01,064	2,10,000	3,58,000	4,04,000	Increase in budget is due to larger provision for placebands extra temporary establishment, overtime allowance for Bengal Secretary Press.
Printing at Private Presses	898	2,000	1,000	1,000	
Stationery supplied from Central Stores	7,11,900	6,04,000	7,09,000	7,00,000	Figures as proposed by the Superintendent of Stationery in view of actual requirements both in revised and budget have been adopted.
Refunds	511	2,000	1,000	1,000	
Total	13,73,783	12,56,000	13,39,000	13,83,000	Revised based on actuals.

33.—*Miscellaneous*—

Travelling allowances to officers attending examinations	3,825	2,000	3,000	4,000	The increase in budget is under the Khobda establishment.
Subscription to periodicals	33,000	5,000	5,000	5,000	
Rewards for proficiency in Oriental languages, and allowance to Language Examination Committee.	9,010	6,000	6,000	9,000	The increase in the revised is due to expenditure on account of revision of the Bengal Famine Code. The budget provides for charges in connection with the examination and arrangement of Government records.
Cost of books and publications	1,050	1,000	1,000	1,000	
Donations for charitable purposes	1,07,639	1,22,000	1,26,000	1,22,000	The large increase in the revised is due to remission of Gokko loan under the orders of the Viceroy.
Charges on account of European vagrants	5,112	7,000	4,000	7,000	
Rewards for destruction of wild animals	7,558	10,000	8,000	8,000	The actuals include the remission of Rs. 40,000 being the amount misappropriated by the late Commissioner of the Sundarbans.
Petty establishments	33,222	33,000	30,000	28,000	
Special Commissions of Enquiry	18,094	8,000	12,000	20,000	The increase in the revised is due to remission of Gokko loan under the orders of the Viceroy.
Irrecoverable temporary loans written off	5,249	5,000	12,000	6,000	
Charges for search of hidden treasure	84	—	—	—	The large increase in the revised is due to remission of Gokko loan under the orders of the Viceroy.
Rents, Rates, and Taxes	33,823	34,000	32,000	34,000	
Contributions	2,726	4,000	40,000	4,000	The actuals include the remission of Rs. 40,000 being the amount misappropriated by the late Commissioner of the Sundarbans.
Miscellaneous and unforeseen charges	55,397	10,000	1,000	5,000	
Miscellaneous refunds	4,855	12,000	10,000	9,000	The large increase in the revised is due to remission of Gokko loan under the orders of the Viceroy.
Coronation celebration charges	55,561	—	—	—	
Total	3,50,251	2,50,000	3,40,000	2,72,000	

42.—*Irrigation—Major Works—(Working Expenses)*—

Orissa Canals	3,61,432	4,15,000	3,93,167	4,01,000	Revised based on the actual expenditure of eight months of 1903-1904, while the estimate is based on local requirements.
Midnapore Canal	1,44,582	1,80,000	1,31,376	1,37,000	
Bijuli Tidal Canals	54,985	20,000	23,319	20,000	
Soo Canals	5,37,710	6,00,000	6,25,580	5,70,000	
Deduct—For rounding	—	—	411	—	
Total	10,99,709	12,25,000	10,73,000	11,78,000	

43.—*Irrigation—Major Works—(Interest on Debt)*—

Interest	24,53,221	24,73,000	24,53,200	24,52,000
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43.—Minor Works and Navigation—

HEADS.	1903-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT.					
IRRIGATION AND NAVIGATION WORKS.					
<i>Works for which Capital and Revenue Accounts are kept.</i>					
CAPITAL.					
<i>Works in Progress.</i>					
Midnapore Canal	2,309	...	800	...	This budget is mostly for the Dudhai Canal. This includes Rs. 11,176 for purchasing a residence for the Executive Engineer, East Sone Division, at Bankipore.
Orissa Canals	45,543	65,300	38,400	17,000	
Sone Canals	4	...	19,136	...	
Damodar Project	-1,300	...	...	...	The actuals represent expenditure on Madaripore dâi route. The budget for 1903-1904 included Rs. 6,00,000 for a suction dredger for use in the rivers and navigable channels of Bengal on which no expenditure has been incurred during the year. The budget includes Rs. 20,000 for the First Bridge and the balance is for the Madaripore dâi route and other works.
Baran Canals	2,710	...	2,600	...	
Calcutta and Eastern Canals	3,63,457	7,73,000	4,94,600	1,55,000	
Total Capital	4,15,223	8,38,300	5,85,680	1,73,000	
REVENUE.					
Orissa (East) Canal	44,984	40,000	57,020	50,000	
Sone Canals	3,223	1,800	3,500	4,000	
Calcutta and Eastern Canals	3,31,065	2,58,000	2,92,481	2,77,000	
Total Revenue	3,78,316	3,08,800	3,53,613	3,31,000	
Total Works for which Capital and Revenue accounts are kept	6,91,539	11,47,100	9,08,693	5,03,800	
<i>Works for which only Revenue Accounts are kept.</i>					
WORKS IN PROGRESS.					
Nadia Rivers	1,15,618	1,48,000	1,16,886	1,08,500	
Gaighatta and Buxi Khals	601	520	500	1,300	
Total Works for which only Revenue accounts are kept	1,16,219	1,48,520	1,16,185	1,09,700	
<i>Works for which neither Capital nor Revenue Accounts are kept.</i>					
WORKS IN PROGRESS.					
Eden Canal	89,711	39,380	75,859	80,300	
Tour Canal ... ..	...			
Midnapore Canal	10,918				
Total Works for which neither Capital nor Revenue accounts are kept	80,627	39,380	75,859	80,300	
Total Irrigation and Navigation Works	8,68,385	12,26,000	11,03,553	6,90,000	
AGRICULTURAL AND DRAINAGE WORKS.					
<i>Works for which neither Capital nor Revenue Accounts are kept.</i>					
WORKS IN PROGRESS.					
Government embankments and works for the improvement of Government and recheated estates	6,12,023	6,21,000	6,91,976	6,91,000	
Midnapore takavi embankments under contract	26,302				
Gandak takavi embankments under contract	88,894				
Works in charge of Civil Officers	11,193				
Total Agricultural	7,48,412	6,21,000	6,91,976	6,91,000	
Total ... ..	...	...	17,95,559	...	
Deduct—For rounding ... ..	...	...	559	...	
Total in charge of the Public Works Department	14,05,847	19,40,000	17,95,000	12,81,000	
IN CHARGE OF CIVIL OFFICERS.					
Embankments under the contract system—					
Establishments	1,464	1,443	...	1,463	
Contingencies	85	66	...	66	
Maintenance charges of the Howrah and Rajapur drainages	2,741	2,764	...	2,378	
Allowances	2	100	...	100	
Refunds	234	...	...	...
Add—For rounding ... ..	...	4,394	...	4,378	
Total in charge of the Civil Department	4,827	8,800	5,000	5,000	
GRAND TOTAL	14,11,374	19,48,800	18,00,000	12,86,000	

45.—Civil Works—

HEADS.	1903-1903.	1903-1904.		1904-1905.	REMARKS.
	Actuals.	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT.					
<i>Original Works.</i>					
Civil Buildings	Rs. 34,10,000	Rs. 14,25,300	Rs. 47,00,000	Rs. 50,61,000	
Communications	1,35,645	1,85,300	1,80,000	2,65,000	
Miscellaneous Public Improvements	1,13,674	1,10,700	40,000	33,000	
Total	36,59,319	16,21,300	48,80,000	53,59,000	
<i>Repairs.</i>					
Civil Buildings	5,73,940	5,65,000	5,50,000	5,70,000	
Communications	10,15,446	10,33,000	9,90,000	9,85,000	
Miscellaneous Public Improvements	8,010	1,67,000	80,000	1,07,000	
Total	16,57,406	16,65,000	16,20,000	16,62,000	
Establishment	6,57,989	6,33,700	6,40,000	6,90,781	
Tools and Plant	30,087	33,310	33,000	33,310	
Stock and Suspense	3,374	—	—	—	
Total in charge of Public Works Department	63,50,366	63,20,000	74,00,000	80,70,000	
IN CHARGE OF THE CIVIL DEPARTMENT.					
Ferry charges	7,192	9,114	7,000	9,000	
.. refunds	34,467	35,000	40,000	37,000	
Staging bungalows	8,089	11,584	9,000	13,700	
Encamping grounds	631	1,300	—	1,300	
Contributions in aid of Excluded Local Funds and Municipalities	66,675	2,90,000	1,30,000	2,41,000	The decrease in revised is due chiefly to provision for grants for new burial grounds having been omitted and is partly counter balanced by a grant of Rs. 10,000 to Kureang Improvement Fund, of Rs. 6,000 to Chittagong Municipality for the erection of an outdoor dispensary, and of Rs. 5,000 each to Chupra and Puri Municipalities for general improvements and drainage.
Reserve for Police buildings and other purposes	—	—	—	13,50,000	
Total in charge of Civil Department	1,80,844	3,37,000	1,86,000	13,80,000	
GRAND TOTAL	87,80,194	68,77,000	76,46,000	94,50,000	

Contributions from Provincial to Local.

(The figures are in thousands.)

HEADS.	1903-1904								REMARKS
	ACTUALS, 1902-1903				BUDGET, 1904-1905				
	RECEIPTS.		CHARGES.		RECEIPTS.		CHARGES.		
	Receipts.	Charges.	Receipts.	Charges.	Receipts.	Charges.	Receipts.	Charges.	
1	2	3	4	5	6	7	8	9	10
Land Revenue	Rs. 15	Rs. 11	Rs. 17	Rs. 16	Rs. 17	Rs. 16	Rs. 17	Rs. 16	Revised includes larger grants for improvements in the South Parganas.
Provincial Rates ... ..	...	1	...	1	...	1	...	1	
Post Office ... ..	...	13	...	12	...	12	...	12	
General Administration ... ..	...	34	...	24	...	34	...	24	
Police	4,33	27	4,33	16,61	4,33	16,60	4,33	16,61	
Education	27	13,11	27	9	27	9	27	9	
Medical ... ..	...	15	...	9	...	9	...	9	
Scientific and other Minor Departments ... ..	...	3	...	13	...	10	...	13	
Stationery and Printing ... ..	...	18	...	18	...	18	...	18	
Civil Works	2,94	14,12	2,94	9,52	2,94	9,20	2,94	9,52	The decrease in the budget is for smaller grants for roads.
Miscellaneous ... ..	...	32	...	3	...	3	...	3	
Total	7,54	37,44	7,54	37,04	7,54	36,90	7,54	36,93	
Net	19,90		19,60		19,30		19,30		

THE BENGAL LOCAL SELF-GOVERNMENT (AMENDMENT) BILL, 1904.

The Hon'ble MR. SHIRRES moved for leave to introduce a Bill to amend the Bengal Local Self-Government Act of 1885.

The motion was put and agreed to.

The Hon'ble MR. SHIRRES introduced the Bill and moved that it be read in Council. He said:—

"It is usual when a Bill of so much importance as this is introduced that the Member in charge of it should explain the amendments which it proposes in greater or less detail. In the present case, however, the Statement of Objects and Reasons is very full and complete, and I shall not take up the time of the Council long. When an important Act, such as the Local Self-Government Act, is passed into law, no long time elapses before proposals for amendment are made to the Local Government. Most of these are on trivial points, or on technical points relating to matters of drafting. Each of them, however, is carefully enquired into, and if the proposal is found to be sound and is approved of, an order is passed that it should be brought up when the Bill comes up for amendment. As years pass on, other such small unimportant amendments accumulate until the mass of them becomes so large as to justify legislation, or else after some years some important reform or amendment is proposed, which is sufficient to turn the scale and a Bill is brought forward in the Council. This is the history of most of these amending Acts, and this is the history of this Act. An examination of the Statement of Objects and Reasons will show that almost all the amendments are of the former kind: most of them have to do with the drafting or with not very important points.

"Two important amendments of the latter kind however are proposed, and I shall confine my observations to them. The earliest of these in point of time is a proposal to enable District Boards to pay for the cost of bridges built subsequent to the passing of the Act by levying tolls on them.

"The other is a measure for giving greater power and responsibility to District Boards in connection with the construction of light tramways or railways.

"Tolls in Bengal were abolished, I think, in the end of the year 1879-80, and only a few years had elapsed when the proposal to empower local bodies to levy tolls on bridges was discussed by the local officers. I arrived in this country at the end of 1882, and in the following year it was certainly under discussion. The Government of Bengal were, however, at that time so deeply impressed with the evils of tolls that they were very unwilling to go back upon the principle which they had laid down to any extent. They did do so in the case of Municipalities, but in the case of District Boards we had to wait until a new generation grew up which was prepared for the change. The most extreme case, a case in which everyone will admit the proposal to be justifiable, occurs when a District Board is in possession of a ferry which yields considerable revenue. It would not yield a considerable revenue unless it was on an important route. If, however, a District Board builds a bridge, it not only loses the revenue which it derived from the ferry, but it has at the same time to pay out money for the construction of the bridge. The consequence of this is that throughout the greater part of the Province the roads are very badly provided with bridges. This is also aggravated to some extent by the fact that when District Boards during periods of famine or scarcity begin to make roads, they do not at the same time make bridges, because bridge-work requires very little labour, whereas road-making does require a large amount of labour.

In the Bill it is not proposed to confine the power of the Local Boards to levying tolls in cases in which ferries have been replaced by bridges, but they are to be empowered to levy tolls in all cases in which they build bridges after the passing of the Act.

"The other important amendments relate to giving a greater measure of financial autonomy to District Boards in regard to the matter of guaranteeing light railways. At present District Boards have nominally power to give

such guarantees, but practically they have not. The reason for this will be gathered from a concrete case. Supposing that in a district a light railway is made for 25 lakhs of rupees, and the District Board guarantees four *per cent.* on this, that is one lakh of rupees a year. It may possibly happen that the rails are constantly washed away by flood and that large sums of money have to be expended for the re-construction of the line. Or it may happen that the value of the project was over-estimated, and that the returns do not justify it. The very worst that could happen is that the railway will have to be abandoned. Then the District Board becomes liable for the annual payment of a lakh of rupees. There are not more than one or two District Boards in the province which could afford to pay a lakh of rupees without so crippling the administration entrusted to them that Government would be compelled to step in. In other words, the burden would fall not upon the District Board but upon the Government. That being so, the Government looks at the matter from its own point of view and does not leave the decision with the District Board.

"It is not so in all provinces. In Madras, the District Boards have not imposed taxation to the full limit which the law empowers them to do. Consequently there is a reserve power which enables them to give a guarantee. In this Bill it is proposed to create for District Boards specific reserve power for taxation which will enable them to give a guarantee. The sections of the Bill which relate to this are 46A, 46B, 46C, 46D and 46E. It will be seen that these sections provide that if a District Board is disposed to give such a guarantee, it must agree to taxation being raised when it gives the guarantee and the order which actually imposes taxation is passed by the Lieutenant-Governor. This is to avoid the practical difficulty which would probably arise if the guarantee were given by the District Board, and some years later the District Board were called upon to pay the money. In such a case the District Board which was called on to carry out the guarantee might be differently constituted from that which gave the guarantee, and it might be very difficult to get together a quorum which would vote for imposing taxation. Therefore whenever they have to give a guarantee they have to decide whether they agree to taxation; if they are not disposed to do this, then the whole proposal drops. I may observe that a precedent for such permissive taxation is to be found in the Drainage Act.

"I have only one other remark to make, and that is that the Act very strictly limits the power of the Lieutenant-Governor in regard to such taxation, and lays down that no more taxation shall be imposed than is absolutely necessary for the purpose of securing the guarantee, and that as soon as the guarantee is fulfilled the taxation shall cease.

"These are all the remarks I have to make regarding the amendments which are in the Bill. After the Bill was drawn up and submitted to the Government of India some further amendments were received, and possibly some more may be received hereafter, but these can be dealt with when the Bill is referred to a Select Committee. The Bill has been introduced at the end of the legislative session, but it is not proposed to proceed with it to the Select Committee stage till, in all probability, the next cold weather. The object of introducing it now is that full publicity may be given to it, and that the Government may have full time to consider all the objections which may be submitted in regard to it."

The motion was put and agreed to, and the Bill was read accordingly.

The Council was then adjourned to Wednesday, the 6th April, 1904, at 11 A.M.

CALCUTTA :

The 29th March, 1904.

F. G. WIGLEY.

Secretary to the Bengal Council.



The Calcutta Gazette.

WEDNESDAY, APRIL 13, 1904.

PART IVA.

Proceedings of the Bengal Legislative Council.

GOVERNMENT OF BENGAL

LEGISLATIVE DEPARTMENT.

*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Wednesday, the 6th April, 1904, at 11 A.M.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. H. SAVAGE.
The Hon'ble MR. B. L. GUPTA.
The Hon'ble MR. W. C. MACPHERSON, C.S.I.
The Hon'ble MR. D. B. HORN.
The Hon'ble MR. L. P. SHIRRES.
The Hon'ble MR. A. EARLE.
The Hon'ble MR. T. K. GHOSE.
The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.
The Hon'ble RAI TARINI PERSHAD, BAHADUR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.
The Hon'ble BABU SALIGRAM SINGH.
The Hon'ble MR. C. F. LARMOUR.
The Hon'ble MR. A. A. APCAR.

NEW MEMBERS.

The Hon'ble MR. SAVAGE and the Hon'ble MR. APCAR took their seats in Council.

QUESTIONS AND ANSWERS.

BOOKS FOR MIDDLE SCHOOLS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

Has the attention of the Government been drawn to the fact, that although Circular No. 58 (30th March, 1897) of the Director of Public Instruction lays down that the Middle Schools Session should commence on the 1st October, the list of books for these schools is not notified in the Gazette till November?

Is the Government aware that this arrangement not only interferes with the courses of study in these schools, but also entails hardship and inconvenience to authors whose books are prescribed?

Will the Government be pleased to issue orders so that the list of books for middle and primary schools may be published about June, or, in any event, some reasonable time before the session commences?

The Hon'ble MR. EARLE replied —

“The Circular referred to by the Hon'ble Member does not lay down that the Middle School Session should commence on the 1st October, but that it should be held to commence from that date for the purpose of deciding on the eligibility of candidates to appear at the Middle Scholarship Examination. As a matter of fact, the scholastic year in Middle Schools does not usually begin till towards the end of October or the beginning of November; while in High Schools, in which the Middle School courses are taught, it does not commence till January or February. However that may be, it is very desirable that the list of books for the Middle School courses, which has hitherto been published at the end of October or the beginning of November, should be published at an earlier date. Arrangements will accordingly be made by the Director of Public Instruction to issue it in future early in August. It is understood that orders to this effect will give satisfaction.”

THE BENGAL FINANCIAL STATEMENT FOR 1904-1905.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—“With Your Honour's permission, I will submit a few observations in connection with the Financial Statement laid before the Council.

“It is a matter of congratulation that, in spite of the unsatisfactory rainfall, the actual ordinary revenue of the current year is likely to be better than the estimate by Rs. 2,21,000, though this increase will be reduced by Rs. 1,10,000 by the reduction in the opening balance.

“On behalf of the people of Chittagong, may I be allowed to express our feelings of gratitude for the assignment of Rs. 87,000 from Imperial Revenues in the shape of the remission, which was sanctioned by His Excellency the Viceroy during his recent visit to the port, of the unpaid balance of a loan taken by the Port Commissioners of Chittagong.

“In the revised Budget for the current year a saving of Rs. 2,52,000 is shown as being due to a smaller outlay on preventive measures against Plague; and in the Budget Estimate for 1904-1905, provision has been made for Rs. 85,500 only, against the provision of Rs. 3,20,000 in the Budget of the current year, on account of Plague. I must congratulate the Government on the prospect of reduction of expenditure under this head. I hope that plague will die out before long, and that all extraordinary expenditure on this account may cease altogether; but, until then, if the expenditure on preventive measures be met in the Mufassal out of the Provincial Revenues, I may be permitted to urge on behalf of the Corporation of Calcutta, of which I have the honour to be a member, that the rate-payers of Calcutta do not understand why the expenditure of the Corporation

should not also be met by a contribution from the Provincial Revenues of this Government. Out of their not very extensive funds, the Corporation has had to budget for Rs. 1,10,445 on account of Plague expenditure for 1904-1905, Rs. 90,000 of which has to be paid out of ordinary revenue.

"I may remind the Council that a contribution of Rs. 2,50,000 was made by this Government in 1899-1900, when the revenue funds of the Corporation were in a far more satisfactory condition than at present. Contributions were then discontinued, because the Government of India as well as the Local Government considered that the annual revenue funds of the Corporation were capable of bearing a portion of this extraordinary burden and that the balance should be provided by borrowing from the public, loans and interest being met out of the same overburdened revenue funds. The Local Government, in consultation with the Government of India, was, however, pleased not only to discontinue the contribution from the Provincial Revenues, but also to refuse sanction to any further borrowing on this account; and thus the revenue funds of the Corporation are now overburdened to meet all expenditure for measures against plague. If in the year 1899-1900, when the Corporation had a surplus, the Government was justified in contributing Rs. 2,50,000 towards the plague expenditure of the Corporation, then I submit that the Government is far more justified in relieving the Corporation of a portion of its extraordinary burden of plague expenditure in 1904-1905 when the revenue funds of the Corporation require replenishing.

"The people of Bengal are undoubtedly much beholden to Government for allotting the large sum of Rs. 7,66,000 for improving the prospects of the hitherto poorly-paid ministerial officers, for providing for the appointment of an Additional Judge in the High Court, and for adding a large number of officers to the Provincial Subordinate Executive Service. The reforms proposed to be introduced in the Calcutta Police by allotment of Rs. 50,000, will, it is hoped, be appreciated by the Calcutta public.

"It is a matter of regret that the new Provincial Settlement has necessitated the stoppage of the special annual grant of Rs. 5,00,000 to District Funds for the improvement of Communications. It may be hoped that means will be found in the near future at least to resuscitate, if not to increase, the annual grant for so useful a purpose.

"It is a well-known fact that malarial fever has proved a great scourge in Lower Bengal, and the matter has been under the serious consideration of Government for some time past. Expert advisers of Government have often pointed to the necessity of having efficient drainage as one of the most important means of minimising the baneful effects of this fell disease. I would therefore take the liberty of suggesting that a reasonable sum be allotted for the purpose of making an experiment in the efficient drainage of the riparian and other villages round Calcutta."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I desire to offer my sincerest congratulations to the Hon'ble the Financial Secretary for the eminently satisfactory Financial Statement which he has presented to this Council, and the lucid manner in which he has explained the effect of the new Provincial Settlements upon the finances of the Local Government.

"The new Settlement has been regarded with some misgivings by well-informed persons, but I am unable to share the doubt which they have expressed. So far as I can judge, upon a careful examination of the history of Provincial Finance, the system hitherto in force has been defective in, at least, two directions: in the first place, a periodical revision necessarily interferes with the continuity of Provincial Finance; and, in the second place, it distinctly tends to encourage extravagance rather than economy. Under the new system, Provincial Finance acquires, relatively speaking, a larger amount of stability, and, so far as I can make out, the Provincial Government is likely to be benefited ultimately, inasmuch as it will not be open to the Imperial Government to appropriate and absorb any possible balance at the end of every five-year term. Of course, the character of permanency which is thus impressed upon the Provincial Settlement, is merely relative, in as much as

the Imperial Government reserves to itself the power of revision as occasion may require; in other words, the difference between the old and the new system is, that under the old system the Settlement must necessarily be terminated and re-constructed once in five years; under the new system, the Settlement is to continue unaltered till changes are rendered necessary by reason of variations in the surrounding circumstances.

"It has been apprehended by some that as the Settlement is described to be permanent, if there is any growth of provincial expenditure not covered by a corresponding growth of the provincial revenues, the deficit must necessarily be met by the imposition of additional taxes or cesses. So far as I can make out, this apprehension does not seem to me to be well-founded. The Government of India reserves to itself the power to revise the Settlement whenever necessity may demand it, not merely in the interest of the Imperial Government itself, but also in the interest of the Provincial Government. It is expressly stated that the intention of the Government of India is to exercise this power, when the variations from the initial relative standards of provincial revenue and expenditure have, over a substantial term of years, been so great as to result in unfairness, either to the Provincial Government concerned, or to the Government of India, or to other Provincial Governments. The Government of India may also revise the Provincial Settlements when confronted with the alternatives of either imposing additional taxation or of seeking assistance from the Provinces. It seems to me, therefore, that the new system possesses stability as well as elasticity, and I have little doubt that if it is worked fairly and reasonably, it will be found, as years pass on, to be beneficial to the Provincial Government, and a distinct improvement upon the system which has just come to an end. I do not desire to offer any criticisms upon the details of revenue and expenditure assigned under the new Settlement, because, it would be somewhat premature to discuss whether the distribution will be found ultimately to the advantage of the Provincial Government.

"As to the details of the Financial Statement, they indicate, on the part of the Government, a desire and an endeavour to carry out reforms where they are urgently needed. It would be idle to assert that the distribution will please everybody. But I venture to think that it may rightly be pointed out that the claims of different sections of the community have been liberally considered.

"So far as the subject of Education is concerned, the distribution appears to be, on the whole, satisfactory, subject to one reservation which I will presently explain. For the last two years I have contended before this Council, that if the Provincial Educational Service and the Subordinate Educational Service are to be efficiently manned and organised, the prospects of the Department must be considerably improved. It is a distinct disappointment to me that no effective action has yet been taken in this direction. As I have repeatedly pointed out, the initial pay is too low, and the number of appointments in the higher grades too few. It is idle to expect that a distinguished graduate of the local University will prefer an appointment in the Education Service when the Government offers him appointment in the Judicial or Executive Service upon terms which are distinctly more advantageous. If the Education Service be placed upon substantially the same footing as the Judicial or the Executive, I have no doubt the more scholarly among our graduates will naturally seek employment under the Education Department. The matter is one of great urgency and importance; and I earnestly trust that it will receive, at Your Honour's hands, the consideration which it deserves.

"Before I leave the subject of Education, I desire to make a pointed reference to the subject of the reduction of Government scholarships both in number and amount. The figures in relation to this matter are fully set out in the answer which was given to my question put in this Council on the 14th of August last; and I do not propose to repeat them here. I state, without any hesitation, that the reduction which has been effected is a matter of the deepest regret; and there does not, in my judgment, seem to be any justification for the course adopted. The reason which has been assigned is certainly an extraordinary one: it is pointed out that the amount which has been hitherto spent on junior and senior scholarships in Bengal has exceeded the two *per cent.* limit fixed by the Education Commission of 1881. I will not pause to inquire by whom this

brilliant, but somewhat belated, discovery has been made. But are we quite sure that we have made no progress in Education since 1881, and are we equally sure that all the other recommendations of the famous Commission of 1881 have been religiously observed and followed? It seems to me that if the recommendation of the Commission has been ignored for twenty years, it might well have been allowed to lie buried and forgotten for a longer period; in any event, if it was obligatory upon this Government to act up to this particular recommendation, the Educational expenditure ought to have been so increased and regulated as to allow the number and value of scholarships to continue according to the scale which has hitherto prevailed.

"The Hon'ble Mr. Earle pointed out that the amount set free by this reduction was only Rs. 11,376 *per annum*, and had been allotted for the creation of additional primary scholarships. It is obvious that the amount so set free is from the Government point of view an insignificant sum; but the hardship caused by the reduction is very substantial upon poor students. I will illustrate it by one concrete example: under the old system, an indigent student—and there are many such in this country—who obtained a 1st grade junior scholarship of Rs. 20 a month might easily be educated at the Presidency College, where the College fees for junior scholarship holders is Rs. 10, leaving a sum of Rs. 10 for the maintenance of the student. Under the present system, the scholarship is reduced to Rs. 16, which would leave Rs. 6 for the maintenance of the student.

"Then, again, under the old system, the value of the 3rd-grade junior scholarship being Rs. 10 a month, the College fee was fixed for all junior scholarship holders at Rs. 10. The value of the scholarship is now reduced to Rs. 8, but the College fee is maintained at Rs. 10. I asked the Government to consider whether the College fee should not be reduced for those who receive stipends, and I was told in reply that no change can be made. When the Government refuses to make the reduction, one must assume that there are grounds for the decision; but, I will add this without hesitation, that this declaration is inconsistent with the avowed policy of the Government to encourage Education, specially among students of ability and distinction, but of limited means. I earnestly appeal to Your Honour, on behalf of the poor students of this Province, to examine the whole question of junior and senior scholarships, and to afford them such relief as may be found possible under the circumstances.

"In dealing, Sir, at some length with the subject of Education, I have been perhaps encroaching upon the Province which rightly belongs to my Hon'ble friend who represents the University. I will, therefore, turn, for a moment, to the interests of the Great City, the Municipal Corporation of which I have the honour to represent in this Council. It must have been a source of great satisfaction to every individual who is interested in the improvement of the City of Calcutta that the Improvement Scheme has, under Your Honour's administration, assumed shape and is within a measurable distance of being an actuality; but for Your Honour's statesmanlike intervention, we might still have been in the happy position of deliberation, correspondence and discussion; and we owe it entirely to Your Honour's efforts, that an initial grant of 50 lakhs of rupees has actually been made for the initiation and promotion of the Improvement Scheme.

"But, Sir, though this grant may be described as princely, and is a matter for sincere congratulation, I cannot conceal my conviction that the relation between the Imperial Government and the City of Calcutta has in the past been neither fair nor just to the latter. Calcutta is not an isolated town; it is not merely even a Provincial City, but it is an Imperial Capital; and I make this claim, on behalf of the Corporation which I represent, that it is fairly entitled to an annual grant, through the Provincial Government, from the Imperial Revenues. If Calcutta is to be maintained and continued as an Imperial City, it is not fair to the Corporation to say that you must maintain yourself entirely out of your own revenues.

"I do not overlook the fact that the Government, as owner of properties which belong to it within the municipal jurisdiction of Calcutta, contributes to the funds of the Corporation just in the same manner as any private

owner of property does. But I make a higher claim on behalf of the Corporation, a claim for an annual grant from the Imperial Exchequer for the maintenance of an Imperial City. That my claim is by no means extravagant will be manifest if we examine the relation between the British Exchequer and the London County Council. An examination of the accounts will show that their receipts may be grouped under three heads, first, the Exchequer Contribution Account; second, accounts other than the Exchequer Contribution Account; and thirdly, Loans. Under the first head, namely, the Exchequer Contribution Account, we have grants from the Local Taxation Account under the two heads of (A) License and Estate Duties, (B) Customs and Excise Duties. Under the second head, that is, accounts other than the Exchequer Contribution Account, we have receipts of the nature of annual income and of the nature of Capital. Under the third head, we have receipts from Loans.

"If we take the case of the Calcutta Corporation, we have practically nothing under the first head. I have used the word 'practically', because out of what is included in England under License and Estate Duties, a small portion is, in this country, included under Trade Licenses granted by the Calcutta Corporation. But it is substantially correct to say that we have nothing in this country, corresponding to the contribution by the Exchequer to the London County Council. Under sections 20, 21 and 23 of the English Local Government Act of 1888, and the English Local Taxation Act of 1890, the British Exchequer has to grant to the London County Council annually a certain proportion of the Customs and Excise Duties levied by the British Government. I find that in 1896-97, the grant by the British Exchequer to the London County Council amounted to £178,558 which in 1900-01 had risen to £225,729; in other words, if we express ourselves in Indian currency, the grant of the British Exchequer to the London County Council from the Customs and Excise Duties had risen from 27 lakhs of rupees in 1896-97 to 34 lakhs of rupees in 1900-01.

"As I have already explained, I have not taken into account the grant made by the British Exchequer to the London County Council out of the License and Estate Duties, which roughly, speaking, amounts to twice as much as the grant made out of the Customs and Excise Duties. Confining our attention, however, to the grant made out of the Customs and Excise Duties, we find that the Exchequer contribution amounts to $\frac{1}{4}$ th of the ordinary revenues of the London County Council. If the Imperial Government here could be induced to make an annual grant to the Calcutta Corporation at the same rate, the amount would be 3½ lakhs of rupees a year. If, however, this should be considered too large a demand, as in England about half the cost of the Metropolitan Police is charged on the Police Rates (the other half being contributed from the Local Taxation Account and from Imperial Funds), I think I can reasonably press for half the amount stated, namely, for an annual contribution of Rs. 1,75,000. This, I find, is roughly represented by the annual increase in the Excise Revenue in Calcutta, which is stated to be Rs. 1,82,000 in 1902-1903 (Administration Report, 1902-1903, paragraph 457). I venture to urge, therefore, that the Calcutta Corporation is fairly entitled, at least, to an annual grant representing the annual increase in the Excise Revenue in Calcutta.

"While making this claim on behalf of the Corporation I represent, I trust I may be permitted to point out, without impropriety, that the Government is strongly represented on the Corporation and ought to trust that body. I have no desire to revive the angry controversies in this Council five years ago; but I may invite attention to the fact that, under the present constitution, of the three co-ordinate bodies which carry on the Municipal Administration of Calcutta, the Government appoints the Chairman and fully one-third of the members of the General Committee and 30 per cent. of the members of the Corporation. Surely this is a constitution which ought to secure the confidence of the Government, and I repeat that if Calcutta is to be maintained as an Imperial City, it is not fair to make the Municipal Administration dependent almost solely upon funds supplied by rate-payers, it is not fair for the Government to refuse to recognise the responsibility which undoubtedly

rests upon it of making a substantial contribution from the Imperial Exchequer, and it is not fair for the Government to have a voice merely in the Administration but no burden upon the Imperial Revenues. I feel confident, Sir, that although the claim to a share of the Imperial Revenues which I advocate on behalf of the Corporation may seem surprising, and, perhaps, unwelcome, to the Imperial Government itself, if the Imperial Government will only imitate the example of the British Exchequer in its relation to the London County Council, this claim will be regarded as a mere truism by the next generation."

The Hon'ble BABU BRUPENDRA NATH BASU said:—"The first thing that strikes one in the Budget is the Settlement with the Imperial Government. I wish I could share the satisfaction of Your Honour's Government on the result of this Settlement. It is no doubt a great gain that the limits of the period of settlement have been removed, and instead of the five years to which we had become accustomed, we have now a settlement of indefinite duration. To Your Honour's Government, Sir, it is a great relief that the old state of things, of starved parsimony during the first years and of inconsiderate extravagance during the last years of the settlement, is gone, and that Your Honour's Government will be able to pursue its course uncrossed by the phantom of the hand that would spirit away the fruits of all care and economy. But if the period is indefinite, are we altogether free from the fear of intervention? This is what Sir Edward Law says: 'It is evident that the Imperial Government cannot undertake any absolute obligation to maintain at all times a definite proportion between the share of increase of revenues assigned to Provincial Administration and that which it is necessary to retain to meet the growth of Imperial expenditure, and it must always reserve the right to make either special temporary or more permanent reductions from Provincial Revenues, if the exigencies of the State should require such measures.' This is an important reservation. No one will grudge the Imperial Government a liberal contribution in the case of an emergency, but we have some experience of what at times these emergencies mean, and a costly trans-frontier war or a political mission may sweep away the labours of many years.

"There ought to be a distinct line of division between Provincial and Imperial Revenues, and a system should be adopted under which the Provincial Governments should be allowed to nurse and increase the revenues specially allocated to their needs, absolutely free from any inroads by the Supreme Government. It would have been a great relief if the system advocated by Sir Charles Elliot as President of Lord Dufferin's Finance Committee could be adopted, or if that were not found practicable, the occasions when the Imperial Government might come down upon the Local Administrations for enhanced contribution were clearly defined on the lines laid down by the Government of Lord Ripon, namely: 'That the Imperial Government will make no demand on them (i.e. the Local Governments) except in the case of disaster so abnormal as to exhaust the Imperial reserves and resources and necessitate a suspension of the entire machinery of public improvement throughout the Empire.' In the present state of things we may be called upon to surrender our revenues any time at the bidding of the Imperial Government. It has been said on very high authority that we are too apt to make imputations against the Government, and it may be said that the Imperial Government will not exercise their power except on the grounds of clear and absolute necessity. We do not for a moment assert that they would; but it is sometimes difficult for us to find out the grounds for such necessity, and our experience in the past does not inspire us with such confidence. It is unfortunate that this should be so, but who can say that what has been done in the past may not form a precedent for the future?

"Apart from the question of periodicity, what do we gain by the new Settlement? The contribution under the heading of Stamps has been increased from $\frac{1}{4}$ to $\frac{1}{2}$; under the heading of Excise, the contribution has been increased from $\frac{1}{4}$ to $\frac{1}{2}$; under the heading of Assessed Taxes, the contribution has been raised from $\frac{1}{4}$ to $\frac{1}{2}$; under the heading of Forests, from $\frac{1}{4}$ to $\frac{1}{2}$. The Customs have been wholly Imperialized and the Registration wholly Provincialized,

This gives us a net loss of about Rs. 60,71,000 against which we have the Government grant of Rs. 49,06,000. The Imperial Government has raised its contributions on all heads of progressive income, and has thus weakened rather than strengthened our financial position. The Settlement has forced Your Honour's Government to withdraw the special grant of 5 lakhs which three years ago Sir John Woodburn had decided to make to District Boards for improvement of Communications. There is an interesting history of this grant to which I shall refer hereafter. It is the history of vanished millions, of funds raised for one purpose and diverted to another; it is a history of broken pledges and broken assurances, of tardy reparation for a grievous wrong and of reparation again arrested for want of funds.

"We are thankful to the Government of India for its grant of 50 lakhs towards the carrying out of the scheme for the improvement of Calcutta. That scheme is not yet before the public, and nothing but disquieting rumours have so far been heard about it. But, Sir, whatever that scheme may be, I venture to hope that it will not mean additional burden upon landed property in Calcutta. The present cost of Municipal Administration is practically wholly thrown upon house property in Calcutta, and all persons competent to form an opinion on the subject are unanimous that no further burden can be put upon that property. We had hoped that Your Honour's Government would also make a liberal contribution towards the sanitary needs of Calcutta. We trust that hope will yet be realized. No amount of municipal taxation will serve to remove the structural defects of the northern part of Calcutta—defects which originated and grew when the Municipal Administration of Calcutta was entirely in the hands of the Government and for which the representatives of the people were led to the sacrificial stone. Sir, the plague is now present with us as a feared but permanent guest.

"True it is that large sums of money have been spent in the improvement of Calcutta, but moneys which ought to have gone towards the relief of the congested parts have been spent in making the city ornamental and attractive, and the unhealthy areas, except for a few squares and the dismantled bustees which cost nothing or next to nothing to the Corporation, but a great deal to the owners, have remained where they were. The decentralization which was expected to secure saving has resulted in enormously increased expenditure and the charges on establishment have increased by more than four lakhs a year. Municipal servants are paid salaries which are unknown in corresponding posts in Government service, but municipal roads and municipal conservancy are, if possible, worse than ever.

"Four years are nearly gone since the present Act was introduced, and only one year remains within which the system of the continuous supply of filtered water is to be completed in the town of Calcutta. I have the honour to live in a ward where this system is supposed to be in force, but where water is absent during the greater part of the day—during the hot midday sun, and is only available when not wanted in the cool and sleeping hours of the night. If this was meant to be a continuous supply, we shall have to ask the Legislature to introduce a special definition for the word.

"Notwithstanding that all expedients have been exhausted, debiting Revenue heads to Capital accounts, of treating sale proceeds of surplus lands acquired with Capital as Revenue, there is a deficit of nearly two lakhs a year in the receipts as against expenditure, a large part of which is recurring. Though it is well-known that plague and municipal regulations have depreciated the value of land in the northern parts of Calcutta, the assessments are being revised every six years and being continuously and steadily enhanced. The rates have remained nominally stationary, but actually taking into consideration the enhanced assessments, they have risen by more than 25 per cent.

"The representation of the rate-payers is not sufficiently strong on the Corporation. As against 10,143 Hindu and 1,413 Muhammadan voters in 1898, we had 4,495 Hindu and 743 Muhammadan voters in 1903. Against 13 contested elections in 1898, we had 2 in 1903. In this state of things, the rate-payers are entitled to look to Your Honour's Government for protection and relief.

"The question of Plague in Calcutta is not a question which affects the city and the lives of its inhabitants alone: with it are bound up its commerce and its prosperity, and the commerce and prosperity of the whole province, if not of all India. In 1899-1900, the Government made a grant of 2 lakhs and 50 thousand for the Plague expenditure of Calcutta. This grant has since been stopped. The Corporation of Calcutta met plague expenditure by borrowing; but the Government has directed that the expenditure on plague should be met from revenue. The Corporation has to provide annually a sum of Rs. 1,54,000 for interest and sinking fund on the amount already borrowed, which comes up to Rs. 11,25,000, and has also to meet the current expenditure; thus a burden is thrust on shoulders on which alone in any event it ought not to be placed. I would earnestly appeal to Your Honour to take this matter into your consideration, and, apart from large schemes of improvement, to come to the rescue of the Corporation in this respect at least.

"Before I pass from this subject, there is one matter to which I would call Your Honour's attention. In former times, assessment appeals lay to the Commissioners. They were removed from the cognizance of the Commissioners to that of the Chairman with a right of final appeal to the Calcutta Court of Small Causes. The change was sought to be justified on various grounds, and it was asserted that it would not mean any additional harassment or expense to the rate-payers. This state of things continued from 1888 to 1901, when after the introduction of the present Act the Government of Bengal, by a notification, declared that all appeals against assessment should bear the same Court-fee as an ordinary suit. Whatever may be the defects of the Court of Small Causes which is a Court of summary jurisdiction, it is the only Court to which rate-payers can look for relief, but, except in the case of the wealthy, the rate-payers of Calcutta have been deprived of the remedy by appeal such as it is against the assessment made by the Municipal Executive.

"There is one matter in connection with Calcutta to which I would call Your Honour's attention. We find a provision for two lakhs for residences for Government officials. The budget statement is silent as to what this is meant for; but we are told that it is for the purpose of building houses in Calcutta and that it is intended to continue the grant to relieve Government officials from the rapacity of the house-owners of Calcutta. Having regard to the pay of these officials, it would be unfair to contribute to their house-rent from the public revenue; and are house-owners so rapacious as they are represented? Taking the value of land, the cost of materials, the Municipal demand and vacancies and repairs, they seldom, if ever, get more than 5 per cent. It would not be just to them if Government were to enter into competition with them. The Government has very properly withdrawn from such competition in the case of Jail Manufactures on the representation of the Trades Association, and surely Government is not going to change its policy, because land-owners and not tradespeople will be thereby affected.

"Coming to the subject of Education, we find the total Government grant is only Rs. 35,19,000 against a population of 71,744,966, and if we include the contribution of Rs. 18,57,000 by the District Funds it would bring up the total amount to Rs. 53,76,000, giving a ratio of Rs. 7 per head of population for money actually spent on Education. No one can say that the expenditure on Education is sufficient for the needs of the country. The number of boys last year in the primary and secondary schools was 1,427,109 against a population of school-going age of nearly 36 millions. Sir, the Government is directing special attention to the question of Education. It has taken the control of higher Education entirely into its own hands, but what is wanted is not so much Government control as Government encouragement. Sir, it would be easy to show from figures—it has been shown before in this Council as elsewhere—that of all civilized Governments ours spends the least on Education, and when we consider the ignorance of the masses, it seems strange that it should be so.

"The improvement of agricultural methods, the diversion of the people from agriculture to industrial pursuits, all depend upon the question of the education of the masses; and though some progress has been made in the

matter of primary education, much remains yet to be done. We have at present one primary school to every four villages, whereas we ought not to have less than one school in every village. Primary schools, properly conducted, would serve to disseminate knowledge of improved agricultural methods among the peasantry far better than the projected institution at Pusa. The gurus in charge of the primary schools are human beings after all, and with the present prices of foodstuffs and other necessities it would not be possible to expect good work on a salary varying from Rs. 5 to Rs. 9 a month—a salary which an ordinary peon in Government service would reject with scorn. It would be a truism to state that you cannot expect good work from men unless you pay them well. Of all departments of the State, the Subordinate Educational Service is probably the worst paid. I do not know why it should be thought that any pay would be good enough for teachers of youth. The members of the service are quite as well educated and drawn from the same class as those of the Subordinate Executive Service.

"In the Educational Service the grade begins at Rs. 50 a month and ends with Rs. 200 a month. We find many M.A.'s and B.A.'s in the grade of Rs. 50, from which they cannot rise to the grade of Rs. 100 in less than ten years. In the Subordinate Executive Service the initial pay is Rs. 100 a month; there is a comparatively large number of appointments in the higher grade, and promotion, though slow, is rapid compared to the Subordinate Educational Service.

"Coming to the Provincial Educational Service which may be compared to the Provincial Executive Service, we find the same difference. Some of the very best men which English education in this country and in England given to us are in the Provincial Educational Service. As regards Educational qualifications, they stand the foremost, but their pay and prospects are less than those of the Provincial Executive Service. A Deputy Magistrate begins on a pay of Rs. 200 a month, but these men, not infrequently distinguished graduates of English Universities, begin on a salary of Rs. 150 a month. They can rise only to Rs. 700 a month, whereas a Deputy Magistrate in the usual course rises to Rs. 800 a month, and has besides these posts in the Provincial Educational Service and various special appointments.

"Promotion again in the Educational Service is much slower. If, Sir, you want the quality of education to be improved, you must attract good men to the service. We want men and money and not statutes and declarations. It is true our B.A.'s and M.A.'s are poor men, and that you can get them to serve on Rs. 50 a month, but they find their contemporaries who were more favourably circumstanced than themselves and probably very much less distinguished in their academic career earning a better livelihood in other walks of life, and it is but human that though untoward circumstances may have forced them into the Subordinate Educational Service, their heart is not in the work. It is well-known that no graduate of any parts will accept service in the Education Department, unless absolutely forced to do so by pressure of circumstances. It is not fair to them that advantage should be taken of their poverty, and not fair to the country and conducive to the cause of sound education that we should have a disheartened and discontented body of men employed in the work of Education.

"Sir, the consideration of the prospects of the Subordinate Educational Service leads me to the question of another service, which also is very much underpaid—I mean the Subordinate Indian Medical Service. The pay of an Assistant Surgeon was fixed at Rs. 100 at a time when the pay of the Munsif was also fixed at Rs. 100 a month. The Munsif's initial pay has increased to Rs. 200 a month, and the pay of his final grade is Rs. 1,000 a month. The Assistant Surgeon, except for a few appointments on Rs. 200 a month, must end with Rs. 200. Sir William Grey, satisfied as to the injustice done to this class of officers, recommended that their pay should be raised to Rs. 200 rising to Rs. 400, but the Government of India vetoed it on the ground that a second Medical College had been established at Lahore, and the supply would be much more than the demand. Sir, our Assistant Surgeons have to pass the F.A. Examination of our University, and then have to pass through a special course of

training for five years and undergo two examinations, the stiffest known in India, and probably stiffer than any other Medical Examination in the world. It used to be said that these men had the advantage of a private practice. It was true in former times, but it holds no longer true under the present state of things. The unattractiveness of Government Medical Service with two septennial examinations have thrown our best medical graduates on their own resources, and nearly every mufassal town has now got its complement of fully qualified medical practitioners. The opportunities of the Government servant for private practice have thus become very much restricted and he has practically to live on his pay. Having regard to the facts that these officers represent the highest training that our University can impart, that men who have come out of the University with much less trouble are in receipt of much higher pay, that their duties are the highest and noblest known to humanity, that only lately the pay of members of the Indian Medical Service have been enhanced, I think it is but fair that their pay should in some measure be commensurate with their knowledge, skill and attainments.

"There is another class of officers whose horizon the Government ought to enlarge. I refer to the Sub-Deputy Collectors. The present body of Sub-Deputy Collectors are as well educated as the Deputy Magistrates: they perform duties which are responsible and onerous, but they cannot rise beyond Rs. 200. They are greatly overworked, as has been admitted on all hands: there is a grant now to increase the number of these officers, but that will not enhance their prospects. I am quite confident that Your Honour's Government will treat this question with sympathy.

"There is one other matter to which I wish to call the attention of Your Honour's Government. The Government made a saving of Rs. 2,52,000 in the outlay on measures against the plague. In the Imperial Budget, plague occupies a sinister pre-eminence. In the alluvial soil of Bengal, plague does not work the havoc that malaria does. In all our vital statistics, fever plays the most important part; it levies the heaviest toll. Plague strikes terror by its suddenness, but malaria is an insidious poison eating into the vitals of our national life. It has made life in the interior of central, north and parts of West Bengal intolerable, and is tending to the congestion of our cities. If the Government were to include the riparian tracts near Calcutta in an experimental zone and try the effects of good drinking water and good drainage and wage war if it likes against the mosquito parasite, a great step would be gained. If the experiments succeeded, they would be rapidly followed throughout the country, and the Bengal villages would again have the prosperous look which has departed from them.

"The only means which the people might have at their disposal for supplying the needs and improving the sanitation of villages was the Road-Cess Fund, but this has been practically diverted to other ends. I have already taken too much of Your Honour's time, but this is a subject on which I will ask Your Honour's leave to dwell at some little length. We regret that Your Honour's Government has been obliged to withdraw the grant of 5 lakhs to the District Boards for contribution towards Roads. Mr. Baker, as Financial Secretary of the Government, while announcing the grant of 5 lakhs, thus described the helpless condition of the Boards:—

It has long been felt that the resources of the Boards are not elastic enough to enable them to discharge their duties efficiently. And though it is not permitted to us, under the existing system of Provincial Finance, to permanently alienate any part of the Provincial Revenue, we shall do what we can, now that the funds are available.

"Considering that funds are available, it does seem inexplicable why this grant is withdrawn. There is a well-founded complaint all over the province that the Road-Cess is diverted to purposes for which it was not intended. Such a charge ought not to be allowed to continue. I shall, with the leave of this Council, briefly recapitulate the history of the Road-Cess. The zamindars who opposed the imposition on the ground that it would be a breach of the terms of the Permanent Settlement yielded only when an assurance was given by the late Duke of Argyle, then Secretary of State for India, that not only would

the Cess be levied by the cess-payers themselves, but it would also be spent by their representatives. The following extracts, from His Lordship's Despatch, would show the object and scope of the cess:—

Paragraph 22.—It is above all things requisite that the benefits to be derived from the rate should be brought home to the donors; that the benefit should be palpable, direct, immediate.

Paragraph 23.—That besides local roads, the proceeds of the Cess should be devoted to the making and improving of wells, tanks and other works of irrigation, affecting comparatively small areas of land.

Paragraph 25.—That as far as possible the assent and concurrence of the rate-payers should be secured both in the levy and in the management of the rate.

“The above quotations not only establish the purely rural character of the rate but the fact that the Cess should be spent for roads, tanks, irrigation and similar works affecting comparatively small areas, which means small tracts. Sir George Campbell made this clear in his proclamation introducing the Cess Act. He said:—

Every pice levied under the Cess Act, will be spent to improve the local roads, canals and rivers in the district, for the benefit of the inhabitants.

Again:

The tax shall be fairly applied to the village roads and local paths, or water-channels in which the tax-payer is interested.

“What the authorities have been doing, however, is to make the Cess Fund maintain Provincial or district and feeder roads and throw other burdens upon the cess-payers, which ought to be borne by the Government. This operation began in 1880. In that year, an Act was passed in a Council not then constituted as now under which the Road-Cess Fund was charged with certain liabilities not originally intended. The Local Self-Government Act of 1885 converted the Cess Fund practically into Government property, to be dealt with in such a way as the Government pleased. Sir Alexander Mackenzie, though in his usual manner, warmly repudiating the charge made by the *Patrika* about the diversion of the Road-Cess from its original purpose, was yet pleased to issue a Circular by which he relieved the fund of a portion of its unjustifiable burdens. I shall quote from paragraph 7 of the Circular:—

Some relief might perhaps be given to the Boards from Provincial Revenue by revising the conditions under which certain Provincial roads were transferred to local management under the Bengal Acts of 1871-1880. It has been alleged, in the course of debates in the Legislative Council, that such transfers have been unfairly made so as to throw on local funds the burden of maintaining roads which should form a Provincial charge, and the subject is now under inquiry.

“It is a matter of regret to us that the grant of Rs. 5,00,000 a year to the District Boards, whose claim was so clear, has been withdrawn. I am afraid of tiring the patience of the Council. I have not gone into the matter in fuller detail, but I am sure that when Your Honour comes to inquire into the history of this grant, Your Honour will see your way to restore it.

“Sir, our tale of grievances is heavy, and this is probably the only opportunity we have of laying them before you: but I am afraid if I were to go into them fully, it would be a long time before I should finish. However, there is one matter which, as one who has the honour of representing the Calcutta University, I cannot omit to mention. The recent Resolution of the Government of India, doing away with competitive examinations for the public services of our country, has taken us by surprise. Nobody has ever pretended that competitive tests are the best or the surest, but in the absence of any better, they must be preferred. The combined system of competition and nomination, which has hitherto prevailed, has worked with admirable results. The shutting of the open door of competition means the virtual closing of the career of many brilliant University men, who may not possess sufficient interest to secure a nomination. Appointments will now go to mediocres and men who will be able to gain the ear of the powers that be. I cannot but look with dismay upon this part of the Resolution of the Government of India. We have fallen upon

evil times and evil tongues, and our prospects are daily becoming more and more gloomy. I trust that in giving effect to this Resolution, Your Honour's Government will be pleased to frame rules in such a way as not to exclude our best men from the service of the Government of their country.

"His Excellency has challenged us to show any Government which encourages and utilizes indigenous talent in the way that the Government of India does. Sir, in this Council it would be impertinent of me to take up the challenge, and we must wait for the promised figures; but I may be permitted to say that His Excellency is under a total misapprehension as to the character of the rule which is now in his keeping. His Excellency has cited the examples of the Dutch and the Russians. We are the subjects of His Britannic Majesty and all is said thereby. We are and are proud to be citizens of the British Empire. The glory of England is that she has not attempted to treat us as a subjugated race. Her people, her Parliament, her Sovereign, have sought to place us on the same footing as any other subjects of the English Crown, and by her just and generous dealing she has inspired a loyalty in the Indian princes and people which no foreign rule in the history of the world has ever yet been able to secure. It is our earnest prayer that repressive and retrograde measures may not sap the foundations of that loyalty, and that, as in times past so in the time to come, we may go on trusting each other and cementing the bonds that bind us to a common destiny."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"I must thank the Government and the Hon'ble the Financial Secretary for giving a very clear exposition of the financial relations established by the new Provincial Contract between the Imperial Government and the Government of Bengal. If the magnificent Imperial grant of Rs. 1,05,00,000 be left out of consideration for a moment, the opening balance amounts to Rs. 32,99,000, which is certainly a fair sum upon which the Government and the Hon'ble the Financial Secretary may well be congratulated. The present Budget gives us a forecast of many wise and benevolent measures, some of which are new, and some old, awaiting orders from higher quarters, but we hope and trust that they will all be *fait accompli* in the course of the year and add to the happiness and prosperity of the people over whose destinies Your Honour has been placed to rule.

"Before I proceed to express my opinions on certain points in the Budget, I would draw the attention of the Hon'ble the Financial Secretary to certain figures in the Budget, regarding which I would respectfully ask for certain explanations.

"It appears from page 6 of the Budget, that under the head of 'Charge of District Administration,' the Budget estimate for 1904-1905 is Rs. 34,54,000 as against Rs. 31,01,000, the revised estimate for 1903-1904, and Rs. 31,47,131, the actuals for 1902-1903. It also appears that the increase in the Budget estimate for 1904-1905 includes a lump provision of Rs. 1,50,000 for increase of salaries of ministerial officers, and also a provision of Rs. 74,000 for a larger number of Sub-Deputy Collectors and Deputy Magistrates. I would be glad to know how does the Government propose to utilise the balance of the increase.

"At page 6 of the Budget, under the head of 'Land Records and Agriculture,' a sum of Rs. 1,14,000 has been shown as the revised estimate for 1903-1904, and at page 7 of the same, this is described as providing for 'Temporary Establishment on Districts.' This is not very clear to my mind. I would be glad to have some clearer explanation on the point.

"At page 9 of the Budget, under the head of 'Scientific and other Minor Departments,' provision has been made for larger grants for agricultural and silk experiments. I would like to know what is the amount of these grants and what will be the nature of the experiments.

"At page 19 of the Budget, under the head 'Land Revenue,' sub-head 'Management of Government Estates,' a sum of Rs. 5,55,000 has been allotted

for collection of revenue and outlay on improvements. May I know whether any portion, and, if so, what portion, of this allotment is for Agricultural Banks?

"I will now draw the attention of the Council to the subject of the Water-supply in the district. This is a subject of paramount importance; and although discussed threadbare almost at every year's Budget meeting, it does not lose its novelty, but presses every year upon our attention with fresh impetus, and prompts us to inquire as to how far the sufferings of millions of people from an inadequate and impure supply of water in the district have been alleviated during the year. The Council is aware that Government is keenly alive to the importance of this subject, and it is therefore idle on my part to dwell on those sufferings which are intense, especially in seasons of drought. I would, however, crave leave to ask whether the Government could not do more than what it has actually done to afford relief in this direction. I beg to read an extract, which is, I believe, familiar to all, from the Resolution of Government reviewing the reports on the working of the District Boards in Bengal during the year 1894-95. It runs thus:—

In order, however, to secure that something, however little, should be done every year, it seems to His Honour that every District Board might properly set apart at least the sum of Rs. 5,000 a year for the improvement of water-supply, to be spent either in digging or improvement of wells, or in the excavation or restoration of tanks to be reserved for drinking purposes only. The amount suggested is rather more than double the amount actually spent during the past year, but it is very small when compared with the urgency of the want and the extent of the area to be served.

"Now let us see how far the suggestion of Government was acted up to by the District Boards. It appears that the maximum limit of Rs. 5,000 was attained by the District Boards in 1895-96, the first year that the suggestion was to take effect in 2 districts only, in 1896-97 in 10 districts only, in 1897-98 in 19 districts only, in 1898-99 in 6 districts only, and in 1899-1900 in 3 districts only. In explaining this default on the part of the District Boards, the Hon'ble Mr. Baker, the then Financial Secretary, was pleased to observe:—

The only reason I can give is that the resources of the District Boards have been unequal to the task. The resources of many Boards were exhausted in dealing with the famine, and they have not had funds to spare for works of this description.

"This explanation is far from satisfactory, as I shall presently show. We find that in the Resolution reviewing the reports on the working of the District Boards during the year 1900-1901, Government did not even notice any case of default by a District Board in spending the minimum sum of Rs. 5,000, but, on the other hand, enunciated the following proposition: 'The provision of wholesome water in villages is not a difficult or costly matter, and throughout India it has always been regarded as one of the chief duties of the land-owner.' This idea of Government was developed the next year, and the responsibility for supplying water in villages was thrown not only on the zamindars, but on the local residents as well, as will appear from the following extract from the Resolution of Government reviewing the reports on the working of the District Boards during the year 1901-1902:—

The Acting Lieutenant-Governor is disposed to agree with the Commissioner of Bhagalpur that the duty of the District Boards is to provide for water-supply along the main roads, as has been done in Monghyr, and that the improvement of tanks and wells in villages is more especially the duty of zamindars and local residents.

"Neither in the Resolution of 1901-1902 nor in that of 1902-1903 any reference has been made by Government to the said sum of Rs. 5,000, or to any case of default in respect thereof. I presume, therefore, that Government has given up the idea of expecting the District Boards to spend a minimum sum of Rs. 5,000 for supply of water in villages. I think, Sir, Government, instead of relaxing, should have insisted on the District Boards for spending the said minimum sum of Rs. 5,000, which, as the Government was pleased to remark in 1894-95, 'is very small when compared with the urgency of the want and the extent of the area to be served.' If the Government think that the resources of the District Boards are unequal to the task of spending

that amount, and if the District Boards fail to secure effective co-operation from the local zamindars, then I think the Government should make contributions from the Provincial Funds to make adequate provision for water in the district. No duty is more sacred to Government than to save the lives of the millions committed by the Almighty to its care, and the helping hand of Government should certainly be extended to the alleviation of the miseries of the suffering millions who are poor and helpless in this world.

"In Government Circular No. 8T.-M., dated Darjeeling, the 15th May, 1896, addressed to all Commissioners of Divisions, District Officers were asked to make the inspection of villages, with reference to water-supply, a cardinal point in their own tours and in those of their subordinates, and to take full notes of facts in each case with a view to supplementing and correcting the registers. It appears from the Resolution of Government reviewing the reports on the working of the District Boards during the year 1900-1901, that a question had been raised whether such periodical revision of registers did not involve an expenditure of labour and time out of proportion to the results. In my opinion such revision is very necessary in the interest of the localities concerned, and should not be done away with on the ground of expenditure only.

"I would beg to draw the attention of the Council to one more point in this connection. In reply to my remarks about the water supply in the district at the debate on the last year's Budget, the Hon'ble Mr. Collin, the then Financial Secretary, was pleased to say in a letter addressed to me that Government 'would view with favour any attempt to revive the scheme put forward in Sir Alexander Mackenzie's time, in 1896-97, chiefly by Mr. Risley, when it was proposed to introduce local permissive taxation to provide for local wants.'

"We do not know whether it is still in the contemplation of Government to introduce such taxation, and, if so, what is the nature of it. In the absence of any definite knowledge on the subject, I do not think it proper to waste the Council's precious time by an elaborate examination of the subject. All that I at present feel bound to say is, that the suggestion of the then Hon'ble Financial Secretary has created alarm in the minds of the public, and will, if given effect to, bring a further strain upon the poor resources of the country already crippled by the burden of several taxes.

"Before I leave the subject of water, I would make a passing reference to the Water-Works of Bhagalpur. In reply to a question put by me recently about the Water-Works of Bhagalpur, the Hon'ble Mr. Shirres was pleased to inform me by a letter that Mr. Silk would visit Bhagalpur at a very early date, and he would then advise the Municipality and the Government as to what should be done.

"Mr. Silk came to Bhagalpur recently, and having seen the Water-Works, he has advised the introduction of centrifugal pumps for bringing water to the water-works' reservoirs. In reply to my remarks upon the Water-Works of Bhagalpur at the debate on the Budget of last year, the Hon'ble Mr. Collin, the then Financial Secretary, was pleased to say that if there was any necessity for assistance from Government, it would be ready to consider the matter. A case of necessity having been made out, Government has just been pleased to make the Municipality a grant of Rs. 10,000, a small portion of which will be paid in cash and the rest will be utilised in securing necessary materials for furthering out the scheme suggested by Mr. Silk and approved by Government. The suggestion of Mr. Silk, coupled with the Government grant, will, we hope, improve the works to some extent, and I, on behalf of the Municipal Commissioners and rate-payers of Bhagalpur, offer my cordial thanks to Government for the interest it has shown in having deputed Mr. Silk, and for the grant it has been pleased to make.

"I next come to the subject of Education. Now that the Universities Bill has passed into law, the whole system of Education in all its branches will in no time undergo a thorough remodelling; and on the present occasion, I shall

confine my remarks chiefly to primary Education. Last year, I placed a table before the Council which showed that in point of education the Bhagalpur Division was the most backward in the whole Province, the percentage of boys at school to the population of a school-going age being only 13·8. But matters have now decidedly taken a better turn. A sum of Rs. 48,000 out of the Government grant of four lakhs for primary education was allotted to the Bhagalpur Division in 1902. An additional grant of Rs. 15,000 was subsequently made by Government in January, 1903. The cause of primary education has been much furthered by these handsome contributions, for we find that, during the year 1902-1903, the Division gained 31, or 11·5 *per cent.*, in the number of upper primary schools with 1,437, or 12 *per cent.*, in the number of their pupils, and 120, or 5·7 *per cent.*, in the number of lower primary schools with 74·50, or 9·9 *per cent.*, in the number of their pupils. I thank the Government for giving this impetus to the cause of primary education in this Division. It has been declared by the Government of India that 'the new Provincial Settlement does not take into account any contribution which the Government of India may find it desirable to make towards the expenditure rendered necessary by reforms which are in contemplation in the administration of Police and Education.' We hope Your Honour will be pleased to duly consider the claims of this Division when the distribution of a general grant in the cause of Education is made.

"Recently two important measures have been introduced to improve the efficiency of instruction in the primary schools—(1) there has been sanctioned one guru-training school in each sub-division of each district of the Province; and (2) the mode of aiding the primary schools has been changed, as 'all aided schools are now to receive a monthly subsistence allowance, supplemented by remuneration paid at the close of the year and calculated according to the general conditions of the school.' We hope both these measures will be successful. But with regard to the former, I have to observe that the teachers in the guru-training schools are not qualified up to the mark; and regard being had to the remuneration provided for them even at the increased scale, it is difficult to get a class of better qualified men. I am therefore of opinion that larger sums should be spent to remunerate the teachers; but if the available funds do not permit the same to be done, it is better for the present to have one good guru-training school only in each district which may be managed by well-qualified and well-paid teachers, and which may be located at the head-quarters of the district. I may add that the monthly stipend of Rs. 3 to be given to a guru during the period of his training is too inadequate, and I am glad to find that the matter is now under the consideration of Government.

Now, I beg to draw Your Honour's attention to one grievance of the Bhagalpur Division, to which I adverted at the debate on the last year's Budget, namely, the absence of any technical school or any technical side to any zilla schools in the Bhagalpur Division. It is an undoubted fact, and a fact well understood by Government, that technical schools are a great desideratum in this Province, and Government, with the best of motives, has introduced a system of bifurcation of studies in zilla schools. But how far this system has been introduced in the Bhagalpur Division will appear from the following extract from the Report of the Inspector of Schools of the Bhagalpur Division for the year 1902-1903 :—

Under the bifurcation scheme, boys on promotion to the second class of a zilla school have the option of either continuing to study for the Calcutta University Entrance examination or of joining a technical class with a view to learn some handicrafts. This scheme has not as yet been put into operation in the Division on account of the want of technical or industrial schools. In accordance with the wishes of the Director of Public Instruction, recently communicated to me, I have requested already the Chairmen of the District Boards and the District Committees to open industrial or technical classes at their head-quarters. But a pressure from the Department is likely to produce better effects.

"It will appear from the above that without a technical school, the scheme of bifurcation cannot be introduced, i.e., no technical side can be added to any zilla school. In reply to my remarks on the necessity for technical schools at the debate on the last year's Budget, I was told that 'the statistics available

do not show that there is much demand for technical education in that Division. In 1891-92, there were five industrial schools in it, attended by 168 pupils; while in 1901-1902, only one school was in existence, attended by six pupils. * * * 'There is nothing to prevent a fresh application being made at any time: if made, it will receive the careful attention of Government.' Now, Sir, time has changed and the Division is advancing year after year, and so failure in the past is certainly not a clear indication that the scheme will be a failure also in the present. Furthermore, a technical school may now lead to the opening of technical sides to zilla schools, and therefore, unlike the past, technical schools may now be fed by the students of the technical sides of the zilla schools. I submit, when Government has shown great solicitude in other branches of Education, it should also do the same in this branch. It may very well take the initiative; and after ascertaining the state of funds from the District Boards may, if necessary, with contributions from Provincial Funds, see way to start some technical schools in this Division, which will be looked upon as a great boon by the people of this Division.

"It is gratifying to find that seven more Agricultural Banks were opened during the year just closed, and these, together with the 48 Banks opened before, make the total number 55, a fair number, indeed, at the beginning. We believe some more Banks will, as usual, be opened in the course of the current year.

"Your Honour has well earned the gratitude of the country by taking a keen interest in the cause of agriculture as evidenced by Your Honour's recent visit to the cattle-breeding farm at Pusa, and the grant that has been made for experimental cultivation. The importance that Government attaches to agricultural exhibitions and fairs will, no doubt, further the cause of agriculture a good deal.

"I next turn to the subject of services, both Subordinate Executive and Subordinate Judicial. It is gratifying to find that the present Budget includes a provision of Rs. 1,48,000 for a larger number of Sub-Deputy Collectors and Deputy Magistrates, and that the total cost of strengthening the staff of Deputy Collectors is estimated at Rs. 3,00,000, and when the scheme is sanctioned, a further assignment of 2½ lakhs will be made from the Imperial Revenues. The thanks of the public are due to Government for this magnificent grant.

"It is also gratifying to notice that larger provisions have been made for fourth grade Munsifs and temporary establishments, which have caused a rise in the Revised Estimate of 1903-04 and the Budget Estimate of 1904-05.

"I next turn to that class of overworked and underpaid officers, namely, the ministerial officers. We are deeply thankful to Government for having made a magnificent grant of four lakhs for increase of salaries of ministerial officers. Not that Government did not do anything for this deserving class of officers during recent years, but what was done was insignificant in comparison with what was wanted. We were repeatedly assured that Government was in deep sympathy with them, and that it was only a question of time and funds to better their condition, and we notice with delight the fulfilment of the Government pledge. We doubt not that this grant will be distributed in the fairest manner possible amongst the various classes aggrieved, and I would humbly suggest that Government should not wait for any applications for relief, but should of its own motion make an early and thorough inquiry into the requirements of the different classes of ministerial officers, which alone can ensure a fair distribution of the munificent grant.

"In conclusion, I beg to say a few words about Plague. It appears that in the Budget of 1903-04 a sum of Rs. 3,20,000 was set apart for expenses in connection with plague against Rs. 4,50,000, the sanctioned estimate for 1902-03, and Rs. 50,000, the revised estimate for that year. It further appears that, during the year just closed, a sum of Rs. 67,000 only was spent out of the allotment of Rs. 3,20,000, in consequence of which there has been a saving of Rs. 2,53,000 (Rs. 2,52,000). The ravages made by plague every year in Bihar are well known to Your Honour's Government, and

I do not think there is materially any less need for Government aid now than it was two years ago. But we find to our surprise and disappointment that by far the greater portion of the allotment for plague is left unutilized year after year. Having regard to the yearly visits of that terrible disease, I submit that any curtailment of expenditure allotted for plague is not right and proper.

"It is possible that all the localities affected have not applied for Government aid; but, Sir, in my opinion, in matters affecting the life and death of people, Government should not wait for applications for aid, but should ascertain the local needs and extend its helping hand to meet them as far as possible. In this connection I beg to bring to Your Honour's notice that plague broke out at Bhagalpur last year, and it has played extensive havoc there this year. Our best thanks are due to Mr. S. K. Agasti, Joint-Magistrate in charge of the Plague operations at Bhagalpur on behalf of Government, who is straining his utmost and is not leaving a stone unturned to raise funds, to administer medical aid to the sufferers and to check the spread of the disease in the best way possible. The efforts of the Municipality in this connection are also in full swing. A fair sum has been raised by subscriptions, but this is inadequate for the necessary operations. May I request the Government to inquire into the needs of the town in this respect and help it with a suitable grant."

The Hon'ble BABU SALIGRAM SINGH said:—"The Financial Statement which has been placed before the Council is the first of its kind under the new Provincial Contract with the Government of India; and I must congratulate the Government of Bengal on the favourable terms of this Contract which is calculated to allow them greater financial autonomy than was the case before. It is to be hoped that, in the course of a few years, the advantage of the new Settlement will be more appreciably visible by the inauguration of more than one long-deferred reform in every department of the Administration.

"And now I wish to offer a few observations with regard to some of the reforms which the Bengal Government are in a position to carry out during the year. I find that provision is made for increase in the salaries of ministerial officers and for the grant of subsistence allowances to apprentices, to the extent of four lakhs. This is a long-deferred reform, and I trust that the scheme embodying it will receive the sanction of the Government of India early enough to admit of its being launched during the present financial year. In this connection, I have only one suggestion to offer, namely, that the copyists who are at present paid by commission may be incorporated in the permanent ministerial establishment, so that they may be entitled to all the privileges of ministerial officers, including pension.

"Another equally valuable reform provided for is, the increase in the number of Sub-Deputy Collectors, for which purpose a sum of rupees one lakh is budgetted. No doubt the number of Sub-Deputy Collectors badly require to be increased, for at present this useful class of public servants are overworked, and relief is needed as much in their interest as in the interest of efficient work. But in my humble opinion not only the number of Sub-Deputy Collectors requires to be augmented, but their prospects also require to be bettered. As things stand at present, even long continued and approved meritorious service does not always entitle a Sub-Deputy Collector to rise to the rank of a Deputy Collector. I submit that such a state of things is apt to damp the energies of this class of public servants, who are generally recruited from the same class and after the same test as the Deputy Collectors; and I would therefore suggest that Government should reserve a certain number of appointments every year in the Provincial Executive Service to be filled up by deserving Sub-Deputy Collectors.

"Then as regards the large number of new Sub-Deputy Collectors and Deputy Collectors who are to be appointed during the year, I believe that Government is not unaware of the murmur of discontent which prevails among certain sections of the population of these Provinces, who are not adequately represented in these branches of the public service. I hope and trust that the opportunity thus offered by the large number of new appointments, which

will be made by nomination during the year, will be availed of by the Government to equalise, so far as it may be possible, the proportion of the different sections of the various communities in the Provincial Executive Services.

"Of the several projects of public utility proposed to be aided or started during the financial year upon which we have just entered, and for which the sum of rupees five lakhs is assigned by the Government of India, I regret to find that there is not one in which the Province of Bihar is directly interested. The omission is probably accidental, but at the same time I feel bound to urge the claims of the Province which I have the honour to represent, for an adequate share of the grant for projects of public utility.

"I find from the statement which has been placed before us that out of an allotment of three lakhs and twenty thousand in 1903-1904 for plague expenditure there was a saving of rupees two lakhs and sixty-three thousand. It means that more than three-fourths of what was budgetted for Plague expenditure during that year remained unspent, and this, in the face of the severe epidemic of plague in 1903-1904, requires some explanation. Whatever the explanation may be, the melancholy fact remains that the plague, which, within the Lieutenant-Governorship of Bengal, is principally confined to the districts of the Patna Division and to Monghyr and Bhagalpur in the Bhagalpur Division, shows no signs of abeyance from year to year; and instead of any portion of the allotment for plague expenditure remaining unspent, one would think that a larger allotment was necessary to fight this unwelcome visitor who threatens to stay. I would suggest that the bulk of the amount budgetted for Plague expenditure should be divided between the Commissioners of Patna and Bhagalpur, and they should be directed to see that the money they receive is divided between the several districts under their charge, according to the severity with which each may be affected. The actual administration of this fund for measures of prevention or relief may be left to Municipalities, District and Local Boards, and to such voluntary agencies as exist or may be formed hereafter for the purpose."

The Hon'ble Mr. APCAR said :—"I have only a few remarks to make and will do so as briefly as possible.

"I had occasion last year to refer to a memorandum written by Mr. Lees on the improvement of the Waterways of Bengal, with his estimate of the probable cost; since then, the Chamber of Commerce has recently been favoured with a copy of a letter from Mr. Stevenson-Moore on the subject, which is under careful consideration and to which a reply will be sent in due course. I mention this matter, because I think it most important, in the interests of the trade of Calcutta, that the Government should take it up seriously, and I have no doubt Your Honour will give it the attention it merits.

"I see provision has been made for an additional Judge of the High Court. The commercial community have been incessant in their recommendation for appointment of Additional Judges and will appreciate the provision that has been made, but I would press for further additions by way of short-hand writers and typewriting machines to expedite the work of the Courts. I may say every Merchant's office employs shorthand-writers and uses typewriting machines. We find them a great saving of time and trouble, and, consequently, money. In a department which returns the Government such a large profit, I think suitors are entitled to ask that it should be equipped with modern appliances for expediting the work.

"The Holwell Monument has cost the Government a little short of Rs. 29,000. Might I suggest, Sir, that a trifle be added to the cost by providing proper railings round the statue of Sir Ashley Eden, which was removed from the present site of the Holwell Monument and which is left in an incomplete and untidy state."

"The Hon'ble Member notices that, under the head of 'Scientific and Other Minor Departments,' the grants for agricultural and silk experiments have been increased. He asks what are the amounts of these grants and what will be the nature of the experiments. The amounts of the grants for agricultural and silk experiments are Rs. 84,500 and Rs. 6,500, respectively. The agricultural experiments include those to be conducted in connection with crops at the various Government farms; and it may be noted, in this connection, that a new farm is being opened in Cuttack in order to demonstrate the value of Irrigation. Rupees 50,000 will be spent on cattle-breeding at Pusa; a sum of Rs. 7,000 represents a contribution to the Indian Tea Association for the conduct of research work in connection with the cultivation and manufacture of tea; while Rs. 4,300 will be spent on experimental crop-cuttings. The silk experiments are being conducted at Berhampore and Rampur Boalia, and are in connection with the rearing of cocoons and the selection of seed.

"The Hon'ble Member asks what portion of the Rs. 5,55,000 provided under the head 'Land Revenue,' sub-head 'Management of Government Estates' is for expenditure in connection with Agricultural Banks. The reply is that no special provision has been made this year for the purpose indicated, because the necessary expenditure will be met from the lump sum of Rs. 5,55,000 above referred to. There will be no lack of money for these banks.

"The Hon'ble Member has made some remarks in regard to primary education. He acknowledges with gratitude the assistance which Government has already afforded to the Bhagalpur Division in this matter; but he asks for more. He notices that the new Provincial Settlement does not take into account any contribution which the Government of India may find it desirable to make towards the expenditure rendered necessary by reforms which are in contemplation in the administration of Education. He, therefore, asks that, if any such special grant is made, the claims of the Bhagalpur Division may not be overlooked. A reply to these observations is, perhaps, scarcely necessary, because, should any such grant be allotted to this Province, the needs of each Division will, of course, be considered in the same manner as when the allotment of four lakhs for primary education was distributed in 1902.

"The Hon'ble Member next touches upon the subject of guru-training schools. He observes that the teachers in these schools are not duly qualified, and that their remuneration is inadequate. He, therefore, suggests that larger sums should be spent on the salaries of these teachers, or, if funds are not available for that purpose, that one guru-training school should be opened at the head-quarters of each district, instead of, as at present arranged, at the head-quarters of each sub-division. I dealt with this subject at some length in reply to questions lately put by the Hon'ble Babu Bhupendra Nath Basu; and I need not, therefore, say much under this head on the present occasion. I have already pointed out that the pay of the Head Pandits has recently been considerably increased; and it is too early as yet to say that even this increased scale of pay is insufficient to attract suitable candidates. However that may be, it is the intention of Government to have a properly-equipped training school at the head-quarters of each sub-division; and, for that object, no trouble or money will be spared.

"The Hon'ble Member then repeats the complaint which he made last year, *viz.*, that there is no Technical School in the Bhagalpur Division. He quotes the reply which I gave to him last year, *viz.*, that statistics went to show that there was not much demand for technical education in that Division, but that Government would be willing to give careful consideration to any fresh application which might be made for the opening of any such school. It is significant that, notwithstanding the intimation thus given, no such application has been received during the past year. However that may be, the Lieutenant-Governor is now willing to take the initiative, and to ascertain for himself if there is any chance of opening a school of this character in the Division. The Commissioner will, accordingly, be asked to report upon the subject without delay after consulting the Director of Public Instruction."

The Hon'ble Mr. SHERRES said:—"The description which the Hon'ble Dr. Asutosh Mukhopadhyaya has given of the Financial Settlement is correct, and I am very glad to find that both he and the Hon'ble Babu Saligram Singh agree with the Government that the Settlement is one upon which we are to be congratulated. The Settlement is indeed one upon which both the Local Government and the Government of India are to be congratulated. I have nothing to correct in what the Hon'ble Dr. Asutosh Mukhopadhyaya said with regard to it, although perhaps I can make matters a little clearer. He described the Settlement as a permanent one. That description requires some qualification, and when I introduced the Budget I carefully avoided the word 'permanent,' and described the settlement as one which would run no longer for a fixed period of five years as formerly, but for an indefinite period. It will, however, be as permanent as the Local Government should wish it to be. It will continue until and unless, over a considerable series of years, it is found to be unfair either to the Local Government or to the Government of India. Obviously, however, in order to justify any interference, there must be some criterion of unfairness, so that it may be shown that some unfairness exists. The criterion laid down is this:—The Government of India examined the rate of expansion of the different provinces and found that there was an average rate amounting to so much. It was considered that the older Provinces should not be quite so favourably treated as the newer ones, and the rate of expansion for Bengal works out at a little less than the average. After a considerable number of years, if we find that we are not expanding at that rate, we can go up and ask for a revision of the Settlement. In the same way, if we expand at a much faster rate than was anticipated, the Government of India may ask us to give up something. There is also a possibility of a Provincial Contract having to be upset owing to some national emergency, but that is one of those things which we cannot possibly help.

"My friend, the Hon'ble Babu Bhupendra Nath Basu, made some remarks about the Settlement, but I did not have the advantage of knowing what points he would take up, and I was also unable to appreciate clearly the difficulties which he felt. I am not therefore quite sure that any explanation that I make will remove these difficulties. I may observe first of all that the fact that the revenue of the Local Government under the new Settlement is either increased or decreased does not necessarily show that the Settlement is favourable or otherwise. In the present Settlement, Customs had been made an Imperial head. That of course reduces our expenditure and therefore also the income made over to us to meet that expenditure. He referred to a sum of Rs. 61,00,000. As far as I can make out, he has referred to Rs. 60,71,000, by which the receipts from the expanding revenue are reduced. Against that he put the lump grant of Rs. 49,06,000; and in this way he went on to show that the Local Government was Rs. 11,65,000 to the bad. This is scarcely a correct way of estimating the contract. If, however, we do estimate it in that way then we should consider that under the last contract, we had to pay 14 lakhs to the Government of India, which we do not pay to that Government now. So, if we go upon that, we find that instead of Rs. 11,65,000 to the bad, we are more than Rs. 2,00,000 to the good.

"I am unable to follow his remarks about the Improvement Scheme because at present we have no definite proposal before us, and we cannot usefully discuss the matter until this is the case.

"Next he referred to the plague expenditure in Calcutta, and complained that the policy pursued by the Government of Bengal was not sufficiently active. As a matter of fact, the difficulty in regard to the preventive measure in connection with the plague had been to carry the people with us. I think Government is always willing to go as far as we can, taking the people with us. We have never been deterred by the question of expenditure. The Hon'ble Member also asked us to give a grant to Calcutta. He said that the Corporation of Calcutta were able to bear plague charges out of the current revenue, and that they were able to pay their servants higher salaries than either the Government of India or the Local Government could afford to give, and therefore we ought to give them a grant. I confess that I am unable to follow this reasoning.

"Next he referred to the Housing Scheme. This scheme is still in the air, but I may explain that the point of view from which the Government look at it is purely and simply a financial one. There are large numbers of Government servants who are transferred to Calcutta in the ordinary course of administration, and these officers suffer pecuniary loss chiefly because of the difficulty of providing themselves with houses. The Government had to consider, if it was going to remedy that state of affairs, whether it would be cheaper to give them house allowances or to build houses for them. If you give a house allowance in each case, the whole of the allowance is lost; but if you build houses the loss to Government is the difference between the rent actually received and what would be a fair return on the outlay, and it was found by actual calculation that the loss to Government through granting separate house allowances would be considerably greater than if Government built houses of its own for its officers.

"Then as regards Assistant Surgeons, the Hon'ble Member may remember that about 5½ years ago—I think in October 1898, a senior grade was added to the Service, which was to consist of 10 *per cent.* of the whole number of Assistant Surgeons. This was done only 5½ years ago, and unless some reasons are given for reconsidering this subject, I think it will be difficult to induce the Government of India to re-open the question.

"Then the Hon'ble Member referred to the great ravages caused by Malaria, and I agree with him that it is hardly possible to overestimate this evil. I should, however, inform you that something is being done in this direction at present. Inquiries had been made from time to time by specially deputed officers which have resulted in a certain amount of increase of knowledge. In recent years Medical science, and especially the science of Bacteriology, has made great strides, and it was thought that an enquiry by a qualified officer might clear up many points. A special officer was accordingly deputed to make inquiries into this matter, but we have not got his report as yet.

"As regards preventive measures to be taken in malarious areas, I think the Hon'ble Member has overlooked the special Act which was passed a few years ago to provide for drainage. It takes a long time to work out schemes under it. But I may inform him that there are four schemes at present under consideration, three of which are under that Act, and one is under the special sections of the Municipal Act. They have been worked out at a great expense and at the cost of a great deal of labour. Two of the schemes are for the improvement of places which would come within the definition of 'Riparian villages in the neighbourhood of Calcutta.' The first relates to the municipal area immediately north of Calcutta in the direction of Dum-Dum and Barrackpore. The other relates to the Magrahat and Karampooker swamps in the Diamond Harbour subdivision. If Malaria is to be combated by drainage, a certain procedure has to be followed under that special Act, and the people who wish such reforms to be carried out should do their best to examine the localities in which they are interested and should busy themselves in getting up schemes and showing what can be done.

"One of the points which the Hon'ble Member made was to the effect that we are not able to continue the grant of Rs. 5,00,000 for Road Cess this year, and that this shows that we have made an unfavourable contract. This conclusion, however, I cannot admit. Under the five years' system, at the end of five years, the Local Government had always to surrender a certain amount of revenue it had accumulated. As a matter of fact, periodically we had to give up a certain amount, and the more favourable the settlement the more we had to give up at the close of it. Supposing the whole of the revenue for five years' settlement were non-expanding, then at the end of five years the Local Government would give up nothing. If it got a very favourable contract, then at the end of five years it would be in a very flourishing condition and it would have a very large revenue which the Government of India would take away. This has been the system which has been hitherto followed. So it comes about that we have had to give up this Rs. 5,00,000. I may observe also that in the course of the correspondence regarding the Financial Settlement the Local

Government raised many claims, some of which were allowed, while others were not allowed. This grant of Rs. 5,00,000 to the District Boards was made only on three occasions, and the Government of India would not allow it as being absolutely necessary. The fact that we were cut down at the end of five years is what has always happened at the previous settlement; such a cutting down was an essential part of the system, and it does not prove, that the new settlement is unfavourable to the Local Government.

"Then again the Hon'ble Member raised the question which has been threshed out on several occasions about Road Cess being spent on Education and other purposes. He alluded very vaguely to 'vanished millions'; but I may read to him the answer which was given by the Hon'ble Mr. Kisch on the 2nd of April, 1902, in answer to a similar question which was then raised—

'The Government is unable to find, from the letter cited or from any other pronouncement of Sir Alexander Mackenzie, that in his time the burden of maintaining Provincial roads rested with the District Fund, or that the proceeds of the Road Cess were devoted to the cost of maintaining dispensaries, veterinary schools, and other educational establishments.

'The Government is also unable to find, from the letter cited or from any other declaration of the Government of Sir Alexander Mackenzie, that he gave any of the assurances mentioned in the question.

'It is, however, the case that in the time of Sir Alexander Mackenzie it was represented that certain District Boards, in the exercise of the discretion given to them by the Local Self-Government Act, were spending part of the proceeds of the Road Cess, as well as other funds at their disposal, on schools, dispensaries and other objects beyond the scope of section 109 of the Cess Act of 1880. The Government of Sir Alexander Mackenzie therefore explained by circular orders that the Local Self-Government Act of 1885 had repealed the restrictive section (109) of the Cess Act, had merged the Road Cess in the District Fund, and had added pounds, education, medical relief, sanitation, vaccination, famine relief, the destruction of noxious animals, fairs, and agricultural exhibitions to the list of objects to which the fund might be applied. At the same time Sir Alexander Mackenzie expressed his opinion that it was desirable that, as a general rule and gradually as might be practicable, an amount approximately equal to the proceeds of the Road Cess should be devoted by District Boards to the objects of the Act of 1880.

'This expression of opinion, although involving no legal obligation, has been on the whole acted upon by District Boards in the exercise of their discretion and the powers of self-government given to them by the Legislature.

'At present, no Provincial road is maintained by a District Fund unless the District Fund is in receipt of a grant from Provincial Revenues at least equal to the estimated cost of maintaining the road. Also, the returns for 1900-1901—the latest completed year for which figures are available—show that the total expenditure of District Boards on roads and other means of communication, the drinking-water supply, drainage, and other objects within the limited scope of the Cess Act of 1880 was more than 45 lakhs, that is to say, at least 2 lakhs more than the total proceeds of the Road Cess.'

"The Hon'ble Member's remarks were founded on the supposition that this section of the Cess Act is still in force, but as a matter of fact, it has been repealed.

"I hope I shall be able to remove a difficulty which has been felt by my Hon'ble friend, Babu Saligram Singh. He complains that of the five lakhs which were given for special objects, no part has gone to Bihar. Bihar, however, includes the Divisions of Patna and Bhagalpur, and out of the first item of Rs. 37,000 in the list it is proposed that Rs. 8,000 should go to Muzaffarpur and Rs. 8,000 to Bhagalpur. Then lower down you will find an item of Rs. 17,000, of which between Rs. 7,000 and Rs. 8,000 will go to Bankipore. Then I think Bihar may take some credit for the Rs. 50,000 for the hospital at Kurseong, which is not for the benefit of the people living in Kurseong alone: it is for the benefit of those living in other parts, and people can get there very easily from Bihar by using the Bengal and North-Western Railway; also there is a sum of Rs. 25,000 for the equipment of hospitals and dispensaries, of which no doubt the people of Bihar will get a portion; so that it will be seen that this money is to be distributed throughout the whole of the Province, and there can be no doubt that the people of Bihar will get their share of it.

"I have some further remarks to make with reference to what was said by the Hon'ble Maulvi Siraj-ul-Islam, Khan Bahadur.

"Reference has been made to the savings under the head of 'Preventive Measures against Plague' in the last two years, and it has been suggested that the expenditure incurred in Calcutta should have been borne by the Provincial Government, and that in view of the ravages of plague in Bihar no savings should have been allowed to accrue. As regards the first point, it may be noted that the Government never undertook to reimburse the municipalities for the expenditure incurred by them under this head. When the expenditure of a municipality has been so heavy as seriously to interfere with its ordinary expenditure, the Government has assisted it, and a few years ago a grant of 2½ lakhs was made to the Calcutta Corporation; but at the time Government declared that it had no intention of repeating the grant, and that in future Calcutta must bear its local charges like any other similar body. As regards the second suggestion that no savings should have been allowed to accrue, it is to be remembered that when the budgets were drawn up the Government did not know how severe the outbreaks of plague would be. Had Bengal suffered as severely as Bombay or the Punjab, probably the whole allotment would have been spent. Had such a misfortune occurred, this Government would have been ready for it. It did not occur, and the money then became available for expenditure on other objects.

"I now come to deal with the remarks of my Hon'ble friend, Rai Tarini Pershad, Bahadur. He wishes to know the explanation of the difference between Rs. 34,54,000, the budget estimate under the head 'Charges of District Administration' for 1904-1905, and Rs. 31,47,000, the actuals under the same head for 1902-1903. The difference is Rs. 3,07,000, but of this the sum of 1½ lakhs is for increase of salaries of ministerial officers, and Rs. 74,000 for a larger number of Sub-Deputy Collectors and Deputy Magistrates. The balance to be explained is Rs. 83,000 which is made up as follows :—

	Rs.
Temporary establishment for land acquisition	23,000
Increase in the net charges on account of partition because of smaller recoveries	22,000
Process-serving establishment	10,000
Additional grant for record-rooms	4,000
Normal increase of establishment	24,000
Total	83,000

"The next question is that of Water-supply in the mufassal. My Hon'ble friend, who represents the municipalities of one Division, urges Government to deal firmly with the District Boards and insist on their spending a certain minimum sum on the improvement of water-supply. Perhaps it would be more satisfactory if those who are directly interested would induce the District Boards to take action on their own initiative. The local zamindars might also greatly assist by relaxing the severity of the conditions imposed on those who wish to dig tanks and wells. As you are aware, however, the Lieutenant-Governor has already interested himself in the matter, and has expressed the hope that when the Government comes forward, either directly or through the Local Boards, the public will do so also. I am now authorised to say that if in any case the local authorities will contribute one-third of the cost and the public another third, the Government will contribute the remaining third up to a maximum of Rs. 5,000 for any one district and of Rs. 50,000 for the whole Province.

"The next point which I need notice has to do with the increase of the salaries of ministerial officers. It is suggested that Government should not wait for any applications for relief, but should of its own motion make an early and thorough inquiry into the requirements of the different classes of

ministerial officers. I am glad to be able to reassure the Hon'ble Member on this point. The inquiry which he suggests has already been made, and all that is now necessary is to place the results of it before the Government of India.

"I pass over the question of plague charges, which I have already dealt with, and come to the request for a special grant to the Bhagalpur Municipality to enable it to bear the charges on account of the operations for the prevention of plague. To that request the reply is, that such an application cannot be entertained until the actual expenditure is known and the effect upon the financial position of the municipality has been considered. In other cases, when the expenditure has been so heavy as to seriously affect the ordinary administration of the municipality, the Government has given some assistance, and probably it will do so in this case also if the circumstances are similar."

The Hon'ble the PRESIDENT said:—"I shall not detain the Council long with any remarks I have to make in regard to the Budget. The criticisms which have been made in respect of the Financial Statement by certain Hon'ble Members have been in most cases answered by other Hon'ble Members immediately following them; and I think that all explanations necessary have been given finally by the Hon'ble Mr. Earle and the Hon'ble Mr. Shirres on behalf of the Government.

"I do not consider it necessary to make any remarks in regard to the criticisms which have been made on the policy of the Government of India. Certain recent resolutions of the Government of India and their alleged attitude towards the Corporation of Calcutta have been referred to. I acknowledge the absolute necessity for allowing the fullest freedom of speech on an occasion of this kind, and I should regret very much to put any closure upon any remarks of any sort in a debate on the Budget; but if I had any inclination at all to refer to certain points as being irrelevant to this discussion, it was in respect of those remarks and criticisms levelled against the Government of India. We are not here either to criticise or to defend that Government.

"I will now pass on to deal with one or two remarks of a general character which have been made by one or two Members. The first of these is in regard to the Improvement Scheme of Calcutta, remarks on which were made by the Hon'ble Dr. Asutosh Mukhopadhyaya and the Hon'ble Babu Bhupendra Nath Basu. The first of these Hon'ble Members spoke with great admiration of the scheme which had been prepared for the consideration of the Government of India. I regret to say that I am unable to speak of it in such terms or any terms at all; for it is an absolutely unknown quantity. We have no doubt submitted our recommendations, but we are not going to say what these recommendations are, or to propound any scheme either for admiration or criticism by the public until we have heard what the Government of India have to say on the matter. The Hon'ble Babu Bhupendra Nath Basu tried to draw us on the subject, and to obtain information from us, by his criticism of the scheme. We shall not tell him whether what he has heard is true or not; but we shall keep all these things deep down in our bosoms as Official Secrets.

"I may here remark this much that we have already received very substantial intimation of the sympathy of the Government of India with the desire to do something for the improvement of Calcutta, in what is well known to all, *viz.*, the grant of Rs. 50,00,000. I may, however, add, as a caution, that the letter which announces that grant also says that this is subject to the condition that a satisfactory scheme is proposed, and if a satisfactory scheme is not proposed the grant will be withdrawn and re-credited to Imperial Revenue; so that, so far, as our position stands in regard to the scheme, we are exactly where we were before, looking into the misty and unknown future. In regard to this misty and unknown future of the improvement of Calcutta I will say this that I had the privilege and pleasure of consulting gentlemen who represent every phase of opinion in Calcutta; and I have not the slightest hesitation in saying that while we shall go forward with something approaching courage into the future in regard to this scheme, we shall owe that courage to the fact that I am sure that we shall carry the

entire sympathy of all classes of the community who are deeply interested in the matter, not only from a selfish but from a altruistic point of view.

"I am rather surprised to find, even though it comes from a resident of Calcutta, as the Hon'ble Member described himself, such a complaint as that we have made no grant at present to the revenues of the Corporation. I am surprised because I am bound to say that he did establish the necessity for the grant; and when we have open mouths all over the Province, clamouring to be filled, I do not see why we should turn to the mouth which is, so to speak, closed in respect of this grant. Furthermore, I should like the Hon'ble Member to refer to the Budget and see what this Province does for Calcutta, and all the items running to six figures of expenditure solely in Calcutta and for the advantage of Calcutta, which this Budget contains. I do not think it can be said for a moment that we neglect the Provincial Capital, neither can it be said that the Government of India neglects the Imperial Capital.

"There is one other remark made by the Hon'ble Member which I should like to refer to, although it has already been commented upon by the Hon'ble Mr. Shirres, and that is with reference to what he said about the Government's proposals to supply houses for its officers. I must say that one cannot help being amazed at the attitude which the Hon'ble Member takes up in regard to this matter. The Hon'ble Mr. Shirres, in replying on this point, confined himself to simply saying that it is to the interest of the Government to decide which way is the best for compensating its officers for the extra charge involved in coming to Calcutta; but I should like to go a little further and ask whether the Hon'ble Member was serious at all when he proceeded to criticise us for providing houses for our officers? Will he point to any large business firm or house in Calcutta which is not doing the same thing? Is it not quite a common thing for large firms in the City to provide houses for their own permanent officers? And when we have permanent offices, always filled by officers of the same rank, surely we are entitled to do something of the same kind. I think it is really almost too amusing to hear an Hon'ble Member stand up and tell us that by so doing we are entering into competition with owners of houses in the matter of house-rent. I know by my own personal experience, as a man coming to Calcutta and entering a new house, I found a rapacious landlord who desired to put upon me 50 per cent. more rent than had been paid the year before, simply because I was too late to be able to choose my own place of residence. I am perfectly convinced of this that there is not one reasonable person or firm who would not do for his own permanent servant what the Government, I will not say has done, or is doing, but proposes to do.

"The Hon'ble Member was very dolorous in regard to the settlement which has been made between the Government of India and this Province. He would not congratulate us. He thought that we were living in a fool's paradise of our own, and were far too pleased with the very small mercies which had been extended to us by the Imperial Government. I shall not answer him; because his remarks were anticipated by the Hon'ble Dr. Asutosh Mukhopadhyaya and were also answered by the Hon'ble Rai Tarini Pershad, Bahadur, and the Hon'ble Babu Saligram Singh. I am sure that the answer of these three non-official Members will be far more conclusive than anything I could say in regard to the favourable nature of the settlement which has been made. If the Hon'ble Member thinks that I should not be very glad to take more money than the Government of India gave me, then he has altogether mistaken my position. What I am prepared to say was said by the Hon'ble the Finance Member of the Government of India—that we have been treated with reasonable liberality, and have therefore no ground for complaint.

"I should like to say one word more before passing from the general criticism that has been made, and that is, that I welcome these criticisms as indicating, in the first place, general satisfaction with the Budget, and, in the second place, general accord with the policy of the Government, and general willingness to help. And I may say that from the more important suggestions that have been made down to the very smallest which have been

made, none will escape notice or fail to receive due attention. In that connection I may say especially that the small favour asked for by the Hon'ble Mr. Apar in regard to the statue which now so fittingly holds its place opposite the building which we now occupy will certainly be granted.

"I do not think it necessary to say anything to this Council now in regard to the important matters of the improvement of the number and status of Deputy Collectors, Sub-Deputy Collectors and ministerial officers. A great deal has already been done in the matter as is shown by the fact that so much money has been set aside for these purposes, and that schemes have been framed and submitted to the Government of India. I may, however, at once say that there is nothing that has fallen from any Hon'ble Member of this Council in regard to the desirability of improving not only the pay but also status of any of these classes of officers which has not my cordial sympathy; and these matters will receive the closest attention from the Bengal Government during this year.

"I think it is hardly necessary either to say anything in regard to the improvement of the Calcutta Police to which reference has been made, or in regard to the expenditure which must arise in respect of Police, Education and Irrigation, in regard to which the Government of India has promised us assistance. This is one feature of the settlement which, permanent as it is, is of a satisfactory character, *viz.*, that when this expenditure, which we cannot now estimate and which depends upon circumstances with which we are not yet well acquainted, has to be met, the Government of India is prepared to help us so long as we do what we can to help ourselves. I know there will be great expenditure in regard to Police necessary in this Province. I know also and cordially admit that there will be great expenditure in regard to Education in all grades in this Province, and we are prepared, so far as our funds admit, to undertake that expenditure, and we have the promise of the Government of India to help us as far as possible. I do think, however, that there has been a little failure to acknowledge the progress which has been made in regard to Education during late years, and also to acknowledge the position which we now occupy in regard to our future policy in respect of Education.

"There is one other matter to which I would like to refer in the Hon'ble Babu Bhupendra Nath Basu's speech, and that is his remarks in regard to Agriculture. I am not perfectly certain here again whether the Hon'ble Member ought to be taken quite seriously; because he informs us that the establishment of the College at Pusa is as nothing as compared with the necessity for proceeding at once to teach Agriculture in schools. Now I am perfectly sure that the Hon'ble Member, if he takes the trouble to reflect for a moment, will admit that you cannot possibly teach Agriculture in schools unless you have the teachers. It is not only that a man must know Agriculture, it is that he must be able to teach Agriculture. The first thing we are aiming at is to get a proper establishment for our demonstration farms throughout the province, and for our teaching in Schools and Training Colleges, from Pusa Agricultural College. That is the first thing they are going to give us. I went up to Pusa and had a conference with Mr. Mollison, Director-General of Agriculture to the Government of India, and other officers; and the conclusion we came to was that it would be a very foolish thing to push forward either in establishing demonstration farms or in appointing teachers for Agricultural Schools, so long as we had not the proper agency to carry on this particular work regarding Agricultural improvement. Now I promise that, as soon as we can get men, we will push forward on the lines the Hon'ble Member has indicated.

"I do not think it is necessary for me now to say anything more in regard to a subject which has attracted so much of the attention of the Hon'ble Rai Tarini Pershad, Bahadur, *viz.*, the subject of water-supply in the interior. What has been said by the Hon'ble Mr. Shirres already answers him in regard to this matter. I welcome thoroughly and cordially his suggestions, and I think the proposal we have made that we should extend our help as far as possible, for the present up to half a lakh of rupees, indicates that we have sympathy with

him in regard to this matter. And I do trust that throughout this Province, as has been my experience elsewhere in India, it will be found that the Local Government and the local bodies and the local public will all be found working together in regard to measures of this kind. I must say that I have found, since I came to this Province, instances of liberality in regard to great matters of public convenience of which I had not the very least anticipation, and I have no hesitation in saying that I have the most cordial confidence that in the future when the people understand where our policy is going and what we intend to do, and how we expect them to work alongside of us, we shall have no difficulty in securing their cordial co-operation.

"In regard to one other matter affecting local bodies, I should like to say this. The Road Cess and the Road Cess Valuation—and these are great questions which are of vital importance—are receiving and will receive the closest attention. I had no sooner come to this Province than the senior officers of this Province brought these matters to my notice as requiring attention; and they are receiving attention and will be threshed out as thoroughly as it is possible to do during the year on which we have entered.

"I have again to thank the Council and Hon'ble Members who have contributed to this discussion for the assistance they have given us by their suggestions, and for the kindly manner in which they have received the Budget, which it has been the good fortune of my friend, the Hon'ble Mr. Shirres, to present to the Council."

The Council was then adjourned *sine die*.

CALCUTTA ;
The 11th April, 1904. }

F. G. WIGLEY,
Secretary to the Bengal Council



The Calcutta Gazette.

WEDNESDAY, DECEMBER '21, 1904.

PART IVA.

Proceedings of the Bengal Legislative Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Saturday, the 17th December, 1904, at 11 A.M.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. K. G. GUPTA.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. P. O'KINEALY, Advocate-General of Bengal.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. R. W. CARLYLE, C.I.E.

The Hon'ble MR. D. B. HORN.

The Hon'ble MR. L. P. SHIERES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MAHARAJA SIR RAVANESWAR PROSHAD SINGH, BAHADUR, K.C.I.E. of Gidhour.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.

The Hon'ble BABU SALIGRAM SINGH.

The Hon'ble MR. C. F. LARMOUR.

The Hon'ble MR. A. A. APCAR.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR.

The Hon'ble BABU NALIN BEHARI SIRCAR, C.I.E.

NEW MEMBERS.

The Hon'ble MR. HARE, the Hon'ble MR. K. G. GUPTA, the Hon'ble MR. O'KINEALY, the Hon'ble MR. COLLIN, the Hon'ble MR. CARLYLE, the Hon'ble MR. GREER, the Hon'ble BABU AMBIKA CHARAN MAZUMDAR and the Hon'ble BABU NALIN BEHARI SIRCAR took their seats in Council.

QUESTIONS AND ANSWERS.

OUTRAGE BY RAILWAY GUARDS AT ASANSOL.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(a) Has the attention of the Government been called to the facts of a case reported in the *Bengalee* newspaper of the 14th July, in which certain serious allegations are made of assault and outraging the modesty of some Indian women, committed by three European Railway guards at Asansol?

(b) Is it the case that the inquiry was taken up by the Railway Police, who collected evidence, but that Mr. Colvin, the District Traffic Superintendent, wrote to the Assistant Inspector-General of Police to drop the prosecution on the grounds (1) that the guards are all married men and have uniformly borne a good character; (2) that it is their first offence, and (3) that the European Station Master reports that the guards were fooling themselves under the influence of liquor?

(c) Does the Government approve of this proceeding on the part of the District Traffic Superintendent, and will the Government be pleased to state what has been the sequel of the case?

(d) Having regard to the paramount importance of ensuring the safety of Indian women travelling by our Railways against outrages, and the fact that there have been some very gross cases of outrage at Asansol in the past, will the Government be pleased to take the necessary measures so as to ensure the law taking its course and prevent a failure of justice, owing to the interference of the District Traffic Superintendent?

The Hon'ble MR. CARLYLE replied :—

“(a). The attention of Government has been drawn to an occurrence, which took place at Asansol on the 10th of July. Government has also noticed the article in the *Bengalee* on the same subject to which the Hon'ble Member draws attention.

“(b). The Railway Police inquired into the matter, but no case was instituted as no specific charge was laid by any person. It is not the case that the District Traffic Superintendent wrote to the Assistant Inspector-General, Government Railway Police, Howrah, in the terms suggested in the question under reply. The only communication received by the Assistant Inspector-General on the subject was a letter from the Traffic Manager in which he stated that he had taken the matter up departmentally and dealt severely with the guards.

“(c) and (d). As serious allegations, amounting to charges of outrage, had been made with reference to the occurrence, Government called for the papers of the case; and although the charges of outrage were in no way supported, it was clear that a *prima facie* case under section 120 of the Railway Act had been made out against two of the guards. They were accordingly prosecuted under that section, with the result that they were convicted and fined by the Sub-divisional Officer of Raniganj.”

BIHAR SCHOOL OF ENGINEERING.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(a) Is it a fact that the following rule appears in the prospectus for admission into the Bihar School of Engineering, viz. :—

The number of students admitted to the first year class of each year will be limited to 60, of whom only 15 can be other than Biharis by race (viz., natives of the North-Western Provinces, Central Provinces, or Bengalis domiciled in Bihar); but should the number of suitable applicants who are Biharis by race be insufficient to fill up the 45 vacancies, the vacancies thus occurring can be given to those applicants who are natives of the North-Western Provinces or non-domiciled Bengalis, in that order.

(b) Do the Governments of the North-Western Provinces and Central Provinces contribute towards the cost and maintenance of the Bihar School of Engineering, or is the school entirely maintained by the Government of Bengal; and, if so, in what proportions as against the Government of Bengal?

(c) If the school is maintained by the Government of Bengal, is there any special allocation of revenue from Bihar for the maintenance of the school, or is it maintained out of the general revenues of the province?

(d) Does the Government think that preference should be given—

(i) to Bihari boys, as against Bengalis domiciled in Bihar?

(ii) to boys of the North-Western Provinces and the Central Provinces, as against both domiciled and non domiciled Bengali boys?

The Hon'ble Mr. EARLE replied:—

“(a) The Hon'ble Member appears to have been misinformed. If he will refer to the Calcutta Gazette of the 6th July, 1904, he will observe that the following rule was published with the revised prospectus for admission to the Bihar School of Engineering:—

The number of students admitted to the first-year class of each year will be limited to 60, of whom only 15 can be other than Biharis by race (*viz.*, natives of the United Provinces, Central Provinces, or Bengal); but should the number of suitable applicants who are Biharis by race be insufficient to fill up the 45 vacancies, then the vacancies thus occurring can be given to those applicants who are natives of the United Provinces, Central Provinces, or Bengal domiciled in Bihar or non-domiciled Bengal.

“The previous rule on the subject, which had been in force since the year 1900, was as follows:—

The number of students admitted to the first year class of each year will be limited to 60, of whom only 15 can be other than Biharis by race (*viz.*, natives of the North-Western Provinces, Central Provinces, or Bengal domiciled in Bihar); but should the number of suitable applicants who are Biharis by race be insufficient to fill up the 45 vacancies, then the vacancies thus occurring can be given to those applicants who are natives of the North-Western Provinces, Central Provinces, or Bengal domiciled in Bihar, in that order.

“As the Hon'ble Member will observe, this rule has now been revised so as to allow of the admission of Bengalis, whether domiciled in Bihar or not, and so as to abolish the preference formerly shown to natives of the United Provinces and the Central Provinces. The practice of admitting natives of those Provinces to the Bihar School of Engineering is an old one which was merely continued and recognised in the rules framed in 1900.

“(b) and (c). The Bihar School of Engineering was opened in July, 1896, and owed its origin to the fund known as the ‘Prince of Wales’ Reception Fund,’ which was raised by Bihari gentlemen to commemorate the visit to India of His Majesty the present King-Emperor, and the object of which was to promote technical instruction in Bengal. The cost of the school is met by the Government of Bengal from the general revenues of the Province, and, to a small extent, by the interest of the Fund referred to.

“(d) (i). As explained in my previous answer, the school owes its origin to, and is partly supported by, an endowment which was subscribed entirely by the residents of Bihar. In those circumstances and because the number of students admissible to the school is limited by the available space, it has been laid down that in admitting students preference should ordinarily be given to Biharis as against Bengalis domiciled in Bihar.

“(d) (ii). It has already been explained in my answer to the first question that preference is not given to natives of the United and Central Provinces as against domiciled and non-domiciled Bengalis.”

THE CENTRAL TEXT-BOOK COMMITTEE.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(a) Will the Government be pleased to state the total number of the members of the Central Text-Book Committee and that of the Muhammadan members, and if the latter number is proportionate either to the Muhammadan population or to the number of Muhammadan students under vernacular instruction?

(b) Will the Government be pleased to inquire and state if books objectionable to Muhammadan religious feeling are in use in the vernacular schools, and will the Government take early steps to remedy the evil?

(c) Will the Government be pleased to lay on the table a statement showing separately the figures of the Hindu and Muhammadan Middle Vernacular Scholarship-holders during the last 10 or 5 years; and will the Government be pleased to consider the expediency of setting apart or creating a specified number of scholarships to be competed for by Muhammadan students exclusively for the encouragement of education amongst Muhammadan boys?

The Hon'ble MR. EARLE replied :—

“(a) There are twenty-one members of the Central Text-Book Committee, of whom seven are Europeans, twelve are Hindus or Brahmos, and two Muhammadans. Taking into account only the Indian members of this Committee, the percentage of Muhammadan members is therefore fourteen, whereas the Muhammadan population represents 32 *per cent.* of the population of the Province, and the number of Muhammadan students under vernacular instruction represents nearly 33 *per cent.* of the total number of students under such instruction. The chief reason why the number of Muhammadans on the Committee is small is that the text-books are mostly written in Bengali, and that the number of Muhammadans with an accurate knowledge of Bengali and ready to write text-books is not large. The Lieutenant-Governor will, however, endeavour to secure a stronger representation of Muhammadans on the Committee.

“(b) Government has no reason to believe that any books objectionable to Muhammadan religious feeling are in use in vernacular schools. The Muhammadan members of the Text-Book Committee are always asked to be present at the meetings of the Committee at which the selected text-books are finally passed, and no objections of this nature have been raised by them.

“(c) The figures showing the number of Hindu and Muhammadan vernacular scholarship-holders during the last five years are—

Year.			Total number of middle vernacular scholars so far as can be traced.	Number of scholarships held by Hindus.	Number of scholarships held by Muhammadans.	Percentage of scholarships held by Muhammadans.
1899	...	...	192	160	32	16
1900	...	...	187	163	24	13
1901	...	...	176	145	31	18
1902	...	...	208	175	33	14
1903	...	...	201	178	23	11

“The percentages seem to indicate that it is desirable that a specified number of these scholarships should be set apart to be competed for by Muhammadan students exclusively, as is the case already with the senior and junior scholarships. The Lieutenant-Governor will take this matter into his consideration at an early date.”

FOREST CASES IN KHULNA.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(a) Has the attention of Government been called to a paragraph in the *Amrita Bazar Patrika* of 29th November last about the way in which forest cases are being dealt with in Khulna?

(b) Is it true that the trying Magistrate tries these cases on board the steamer belonging to the Forest Department without giving any opportunity to the accused persons to defend themselves?

(c) Is there any truth in the impression which prevails at Khulna, as reported in the *Amrita Basur Patrika* of the 26th November last, that an order has been issued from some high authority to severely deal with the offenders against the Forest Laws?

The Hon'ble MR. EARLE replied :—

“(a) The attention of Government has been drawn to the paragraphs in the newspaper referred to.

“(b) Forest cases are usually tried at the head-quarters of the district or at the sub-divisions; but the District Magistrate has taken up some cases himself, and these he has sometimes tried locally; and he has sometimes used the steamer belonging to the Forest Department to get to the spot. The Commissioner has advised the District Magistrate not to make use of the steamer in question for that purpose in future. It is not true that accused persons have not been given opportunities of defending themselves.

“(c) No order has issued from high authority that offenders against the Forest Law should be dealt with severely. But, owing to numerous thefts of forest produce from the reserved forests, which have occurred, great loss has accrued to Government. The Forest Department in taking these cases into Court presses for the adequate punishment of offenders who are found guilty. This procedure has been adopted under the best legal advice. It is hoped that the necessity for taking special measures in respect of these cases will soon cease.”

THE MANICKNAGHAR GHAT AND ROAD AT BHADRESWAR.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

(1) Has the attention of Government been drawn to an article in the *Amrita Basur Patrika*, dated 10th November, 1904, under the heading “A petty matter involving important principles”?

(2) Is it true that the Manicknagar Ghât and road at Bhadreswar, in the district of Hooghly, were ostensibly acquired in terms of the Government declaration for a public purpose but have been or are intended to be made over to a private Company?

(3) Is the Government aware that a resolution of the local municipality, passed in February, 1900, making over the ghât to the Company was rescinded by the Government of Sir John Woodburn?

(4) Is it not a fact that several petitions have been submitted to Government by the residents of the locality against the road being made over to the Company, on religious and public grounds?

(5) Does the Government consider it right to acquire a public road and a bathing ghât under the provisions of the Land Acquisition Act and make them over to a private Company?

(6) Has the Government taken the opinion of its Law Officers as to the legal aspect of the question?

(7) Is the Government prepared to re-consider its Resolution of the 17th of September last?

The Hon'ble MR. SHIRRES replied :—

“The Lieutenant-Governor has seen the article referred to in the 1st question of the Hon'ble Member.

“The 2nd, 5th and 7th questions may be answered together. The Hon'ble Member will find the declaration for the acquisition of the land in page 141, Part IB of the Calcutta Gazette of the 25th May, 1904. The views

and intentions of Government are fully explained in a Resolution No. 8159T.M., dated 17th September, 1904, a copy of which has been placed on the table. The Government is not prepared to re-consider that Resolution.

"To the 3rd, 4th and 6th questions the answer in each case is in the affirmative."

MUNICIPAL DEPARTMENT—MUNICIPAL.

RESOLUTION No. 1859T.M.

Darjeeling, the 17th September, 1904.

READ—

A petition dated 6th June, 1904, from Babu Nilkanto Chatterjee and other inhabitants of the Bhadreswar Municipality, in which they protest against the acquisition by Government of the Manicknagar Ghât Road in the district of Hooghly.

Read also—

A petition dated 17th June, 1904, from the Bhadreswar Ratepayers' Association on the same subject.

A petition dated 12th August, 1904, from Babu Hurry Mohun Banerjee and other inhabitants of the Bhadreswar Municipality on the same subject.

A petition dated 22nd August, 1904, from Babu Sutto Kripal Banerjee and six other inhabitants of the aforesaid Municipality, in which they withdraw their signatures from the memorial dated the 12th August, and explain the misrepresentation owing to which their signatures were affixed.

RESOLUTION.—A Declaration No. 791T.M., dated the 23rd May, 1904, was published in the Calcutta Gazette of the 25th *idem*, in which it was stated that the land known as Manicknagar Ghât Road was required to be taken up by Government at the public expense for a public purpose, *viz.*, for the improvement of the means of public access to and the provision of facilities for the public at the river Hooghly. The circumstances in which the Declaration was published are the following:—

2. The land on either side of the Manicknagar Ghât Road is in possession of Thomas Duff and Company, Limited. The Company are the Managing Agents of jute mills situated on the banks of the river Hooghly; and they had acquired the land adjoining the Manicknagar Ghât Road for the purpose of erecting a jute mill. The Company desired to acquire the Manicknagar Ghât Road in order to lay out a more complete compound within which to erect a mill with godowns and dwelling quarters after the latest and most improved designs.

3. In order to compensate the Municipality for the closure of the public road the Company made the following offer:—

(1) That they would cause the sum of Rs. 6,000 to be expended for the following purposes and works:—

(a) The construction of a new pucca road over the land of the Company continuing the Patrapara Road down to the Paikpara Bathing Ghât Road.

(b) The improvement of the existing path running northward from the Grand Trunk Road opposite to the end of the Koila Ghât Road.

(c) The erection of a pucca masonry ghât on the river side at the eastern end of the Koila Ghât Road.

(2) That the Company would pay and make over to the Municipality of Bhadreswar the sum of Rs. 30,000 to be expended in the purchase of a public park or grazing ground, or for such other public purposes as might be thought proper.

4. The Manicknagar Ghât Road is not a thoroughfare, but is used by the occupants of the adjacent houses as a means of access to the river bank for bathing and other purposes. Had the Company been obliged to erect the mill premises on their land on both sides of the road, it would clearly have rendered the road most unsuitable for its present purpose of access to and from the river for bathing purposes, and would have entirely destroyed the privacy desired by the female portion of the community. It appears therefore that

if the road were not given to Messrs. Duff and Company they would be obliged to exercise their rights over their own property in such a way as to cause inconvenience to themselves and their own employes, and also to cause inconvenience to a considerable section of the outside public, who would get no sort of compensation. On the other hand, if the road were given to the Company, the public would be delivered from inconveniences which they would otherwise suffer, and would receive conveniences which they otherwise could not have. The acquisition will be decidedly to the public advantage. It will prevent friction between the public and the mill hands by enabling the mill authorities to exercise supervision over their servants within their own premises and by securing certain specified benefits to the public.

5. The Lieutenant-Governor personally visited the spot on the morning of the 14th August and walked all over it. The persons found using the Manicknagar Bathing Ghat Road were very few indeed, and the time being just after 8 A.M., this can hardly be ascribed to its not being the ordinary bathing hour. It may be added that this was not due to a desire to avoid meeting employes of the mills, as not a single mill hand was visible. His Honour is satisfied that, with the exception of a few persons who occupy the houses of Bhadreswar just at the far end of the Manicknagar Bathing Ghat Road, no one will feel any inconvenience from the closure of that road. To the few persons referred to the inconvenience will be of the very slightest. Everybody else in Bhadreswar and everybody beyond will be much advantaged by the opening up of the new road continuing the Patrapara Road, and even more by the opening up of the Koila Ghat Road, which was almost impassable from mud, and by the construction of a pucca ghat at the end of it.

6. The proposal for the closure of the road was approved by the majority of the Municipal Commissioners, and the advantages which it will secure to the public are so obvious that the Lieutenant-Governor cannot consider the opposition to the scheme otherwise than unreasonable and factious. His Honour therefore declines to withdraw the Declaration for the acquisition of the land.

ORDER.—Ordered that a copy of this Resolution be forwarded to the petitioners for information.

By order of the Lieutenant-Governor of Bengal,

L. P. SHIRRES,

Secy. to the Govt. of Bengal.

PROPOSED PARTITION OF BENGAL.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked:—

(a) Is it true, as stated in the *Pioneer*, that the Government of Bengal has submitted to the Government of India its Report on the question of the proposed partition of Bengal?

(b) If so, will the Government be pleased to lay the Report on the table?

(c) If the Government does not see its way to do so, will the Government be pleased to state the substance of this Report?

The Hon'ble MR. CARLYLE replied:—

“(a). The Lieutenant-Governor has submitted to the Government of India his reply to that Government's letter which was published in December last on

the subject of the desirability of reducing the territorial jurisdiction of the Lieutenant-Governor of Bengal.

"(b) and (c). It would be contrary to rule to make public a report which is under the consideration of the Government of India. The Lieutenant-Governor cannot, therefore, at present either lay the report on the table or state the substance thereof."

THE DISTRICT OF MYMENSINGH.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked:—

(a) Is it in the contemplation of Government to split up the district of Mymensingh into two separate districts?

(b) If so, will the Government be pleased to state in what way it is proposed to effect this division and what will be the head-quarters of each of these two newly-formed districts?

The Hon'ble MR. CARLYLE replied:—

"(a). Proposals for the division of the district of Mymensingh have been considered by Government several times. They have been recently revived. Mymensingh is the third largest district in Bengal and has far the largest population, having a population of nearly four millions, or a million in excess of any other district. In police work and criminal case-work it is much the heaviest district in Bengal.

"(b). The District Magistrate's proposal, which appears to the Lieutenant-Governor to be the best that has been so far put forward, is that the Tangail and Jamalpur Sub-divisions should be formed into a new district with head-quarters between Madhupur and Gopalpur, and that the rest of the district should continue to have its head-quarters in the town of Mymensingh. These proposals have not yet been matured."

THE POLICE SERVICE.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked:—

(a) Has the attention of the Government been drawn to an article headed "The Indians and the Police Service" which appeared in the *Bengalee* of the 23rd July, 1904?

(b) Will the Government be pleased to state how many native Inspectors of Police have been promoted to the rank and grade of Assistant Superintendent since May, 1900, in accordance with the rule laid down by the Government of India as referred to in the said article?

The Hon'ble MR. CARLYLE replied:—

"No such appointments have been made since 1900. This matter some months ago attracted the attention of the Lieutenant-Governor. He found that action under the rule referred to had been suspended by the late Sir John Woodburn, owing to the proposals for the re-organisation of the Police, which were under the consideration of the Police Commission. The orders of the Secretary of State on the recommendations of the Police Commission in this connection are expected before long and must be awaited."

MR. FOSTER'S CASE

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked :—

Has the attention of the Government been drawn to the judgment of the High Court (Pratt and Handley, JJ.) in the case of Raghunandan Pershad and others, petitioners, *vs.* the Emperor, opposite party, as reported in the Calcutta Weekly Notes of August 15th, 1904, and commented on in the *Amrita Bazar Patrika* of the same date? And has the Government been pleased to take notice of the conduct of Mr. Foster, Deputy Commissioner of Hazaribagh, as disclosed in the said judgment and the said newspaper? And, further, in view of the fact that such acts of insubordination on the part of the subordinate judiciary are calculated very much to weaken the administration, will the Government be pleased to take such measures as it may deem fit to discourage such conduct on the part of all subordinate Courts in relation to their superior Courts in future?

The Hon'ble MR. CARLYLE replied :—

"The Lieutenant-Governor has had the case in question before him, and has fully dealt with it in consultation with the High Court. No further action of any kind seems to be necessary."

LANDLORDS' FEES

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked :—

Will the Government be pleased to call for and lay on the table a statement showing, district by district and year by year, the amount of "Landlord's fee" paid and the amount of such fee placed in deposit under sections 12, 13 and 15 of the Bengal Tenancy Act, 1885 (VIII of 1885), since the passing of the said Act?

The Hon'ble MR. EARLE replied :—

"The statements asked for, which have been submitted by the Board of Revenue, are laid upon the table."

BURDWAN DIVISION.

Showing the amount of landlords' fees paid and the amount of such fees held in deposit, under sections 12, 13 and 15 of the Bengal Tenancy Act

BURDWAN		BIRBHUM		BANKURA		MIDNAPUR		HOOGHLY		REMARKS	
Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.			
Realised.	Held in deposit.	Realised.	Held in deposit.	Realised.	Held in deposit.	Realised.	Held in deposit.	Realised.	Held in deposit.		
2	3	4	5	6	7	8	9	10	11	12	
Rs.	P.	Rs.	P.	Rs.	P.	Rs.	P.	Rs.	P.		
773	30			Nil		87	91	1,315	0	782	8
1,307	50	287	37	2,709	345	4,402	2,905	7,871	0	2,113	9
1,131	1,111	1,30	83	2,930	345	3,005	2,930	2,414	13	4,407	14
2,108	2,108	630	250	1,130	817	2,147	2,110	2,302	4	5,442	13
1,761	1,761	441	150	5,130	587	1,06	008	5,097	8	3,214	14
1,029	1,029	250	119	108	337	668	601	4,105	12	2,705	12
818	818	147	45	854	105	218	761	2,010	14	2,556	14
1,146	1,146	250	41	944	178	437	429	2,729	1	2,004	2
875	875	168	102	104	178	437	429	2,729	1	1,853	4
1,757	878	755	117	902	184	1,701	425	2,371	6	1,602	6
2,105	679	1,404	5	753	281	1,717	827	2,010	4	1,602	9
1,775	915	271	72	867	207	1,010	1,024	2,102	6	1,602	2
1,098	808	210	585	1,118	204	1,720	1,000	2,309	0	770	7
1,201	447	682	203	1,175	803	1,521	1,000	1,550	0	87	8
1,200	1,421	904	628	1,015	2,225	2,045	2,704	8,470	0	8	224
1,601	3,100	1,488	801	2,004	5,303	5,007	9,011	11,048	0	10,200	0
1,807	4,100	1,107	902	1,705	4,243	11,140	10,617	13,145	0	12,300	0
1,614	3,100	800	744	1,004	5,020	10,643	9,730	1,105	0	1,000	0
1,158	2,7	1,057	803	8,372	7,213	12,629	9,713	15,834	13	1,000	15
1,158	28,533	10,900	5,015	47,047	20,600	68,651	5,910	1,50,171	7	80,806	10

PRESIDENCY

Statement showing the amount of landlords' fees paid and the amount of such

YEAR.	24-PARGANAS.		NADIA.		MURSHIDABAD.	
	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	
	Realized.	Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.
1	2	3	4	5	6	7
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1885-86	2,479 15 6	2,055 6 0	.....	.....	1,912 1 9	864 9 9
1886-87	16,102 10 2	13,504 9 9	1,704 14 11	719 5 0	1,316 12 6	585 13 3
1887-88	17,761 15 2	13,035 14 11	1,437 0 6	1,396 4 6	832 10 9	374 5 9
1888-89	10,034 5 3	6,427 8 4	1,705 7 8	1,459 5 6	1,333 3 8	478 14 4
1889-90	5,871 8 10	3,092 8 0	1,016 9 0	934 14 0	600 5 0	174 10 6
1890-91	5,073 12 8	3,027 3 5	944 11 0	937 11 9	1,230 1 3	601 14 0
1891-92	4,858 4 0	2,872 3 9	744 2 6	731 15 0	267 0 6	199 10 3
1892-93	4,782 13 3	2,021 1 0	606 14 6	606 14 6	271 13 0	73 0 0
1893-94	4,226 12 6	2,502 8 1	632 9 3	620 9 3	194 3 0	71 1 6
1894-95	4,535 3 8	2,044 9 11	946 4 6	717 15 0	571 0 0	292 11 0
1895-96	4,135 5 6	2,340 12 10	872 6 3	664 13 3	231 5 3	213 5 3
1896-97	4,080 6 5	4,079 6 2	1,276 6 6	886 6 6	735 0 0	529 15 6
1897-98	4,027 10 9	4,027 10 9	1,27 11 0	800 15 0	241 14 0	232 0 0
1898-99	3,941 0 9	3,020 4 9	1,25 1 6	800 1 6	518 9 0	237 1 0
1899-1900	5,045 0 0	5,753 0 0	1,503 4 8	1,460 13 2	881 4 9	609 7 3
1900-01	15,782 0 0	15,769 0 0	1,971 6 9	1,969 1 9	1,511 1 6	1,382 12 3
1901-02	13,786 0 0	13,600 0 0	1,969 12 4	1,874 12 10	427 9 7	347 7 4
1902-03	16,277 0 0	14,888 0 0	1,034 0 0	1,330 0 0	500 12 6	393 12 3
1903-04	15,474 0 0	15,248 0 0	2,267 0 0	1,835 0 0	1,414 0 0	1,166 0 0
Total	1,01,575 12 4	1,33,039 12 5	23,665 11 7	20,712 14 6	14,889 12 0	9,038 7 2

RAJSHAHI

Statement showing the amount of Landlords' fees paid and the amount of such

YEAR.	RAJSHAHI		DINAJPUR		JALPAIGURI	
	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	
	Realized.	Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.
1	2	3	4	5	6	7
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1885-86	...	...	390 0 0	...	...	...
1886-87	310 2 3	365 1 0	339 0 0	180 0 0	...	...
1887-88	189 0 6	109 0 6	270 0 0	225 0 0	...	...
1888-89	359 1 0	359 1 0	324 0 0	101 0 0	...	...
1889-90	270 15 6	270 15 6	283 0 0	80 0 0	...	...
1890-91	282 13 11	282 13 11	296 0 0	230 0 0	...	...
1891-92	304 10 0	304 10 0	283 0 0	105 0 0	Nil	Nil
1892-93	296 1 0	296 1 0	212 0 0	97 0 0	...	...
1893-94	236 5 0	236 5 0	214 0 0	130 0 0	...	...
1894-95	243 9 0	161 2 0	116 0 0	68 0 0	...	...
1895-96	380 0 0	334 0 0	173 0 0	104 0 0	...	...
1896-97	222 10 9	212 6 9	233 0 0	233 0 0	...	...
1897-98	913 1 1	212 1 1	225 0 0	144 0 0	...	...
1898-99	409 8 9	409 8 9	310 0 0	270 0 0	6 0 0	6 0 0
1899-1900	524 8 6	453 12 6	311 0 0	246 0 0	14 0 0	16 9 6
1900-01	1,150 12 0	914 12 0	405 0 0	455 0 0	57 0 0	57 0 0
1901-02	693 10 0	631 10 0	1,063 0 0	919 0 0	52 0 0	45 9 0
1902-03	1,200 6 6	946 6 6	535 0 0	541 0 0	112 0 0	112 0 0

DIVISION.

fees held in deposit under sections 12, 13 and 15 of the Bengal Tenancy Act.

JESSORE.		KHULNA.		REMARKS.
Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		
Realized.	Held in deposit.	Realized.	Held in deposit.	
8	9	10	11	
Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	12
1,096 12 0	301 0 0	Nil.	Nil	
5,411 4 9	1,944 2 9	2,934 0 0	1,553 0 0	
6,647 15 9	4,490 8 9	3,304 0 0	1,332 0 0	
3,556 1 0	3,445 9 0	3,508 0 0	3,187 0 0	
3,368 2 3	1,947 15 6	2,196 0 0	1,615 0 0	
1,871 0 0	1,509 9 0	1,844 0 0	963 0 0	
1,704 6 6	1,668 14 0	1,908 0 0	1,153 0 0	
1,840 15 3	1,800 15 3	2,034 0 0	1,368 0 0	
2,180 2 9	2,034 0 9	2,235 0 0	1,834 0 0	
1,454 8 9	1,207 1 9	1,802 0 0	1,536 0 0	
1,902 10 0	1,623 12 3	1,716 0 0	1,398 0 0	
1,935 14 3	1,686 14 1	1,903 0 0	1,817 0 0	
1,720 15 3	1,689 4 3	1,969 0 0	1,817 0 0	
1,407 0 0	1,742 3 3	1,703 0 8	1,624 0 0	
2,340 9 6	2,127 2 4	3,401 0 0	2,799 0 0	
4,235 0 0	3,973 7 9	4,346 0 0	4,207 0 0	
4,121 10 9	3,900 14 3	5,534 0 0	5,490 0 0	
4,572 6 0	4,336 13 9	5,741 0 0	5,657 0 0	
4,032 7 3	3,904 0 0	5,796 0 0	5,604 0 0	
54,291 6 0	47,607 11 2	54,523 0 0	40,340 0 0	

DIVISION.

fees held in deposit under sections 12, 13 and 15 of the Bengal Tenancy Act.

RANGPUR.		BOGRA.		PAHNA.		REMARKS.
Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		
Realized.	Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.	
8	9	10	11	12	13		14
Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
...	345 11 0	1 The figures for column 12 against 1885-86 and 1886-87 cannot be furnished for want of records (a) Represents realizations for Nadar Sub Division only, because the Bureau for Birajganj cannot be supplied for want of records
924 0 0	146 0 0	748 10 0	106 12 0	...	3,004 12 3	
710 0 0	10 0 0	155 11 0	123 11 0	(a) 915 10 3	1,478 0 9	
391 0 0	32 0 0	275 10 0	953 7 0	(a) 521 11 3	441 3 3	
156 0 0	...	64 4 0	60 4 0	373 13 6	267 6 6	
343 0 0	...	83 5 0	81 5 0	403 12 0	276 0 0	
291 0 0	15 0 0	76 9 6	68 9 6	426 0 0	374 0 0	
219 0 0	2 0 0	97 4 0	72 4 0	300 12 0	325 12 0	
215 0 0	6 0 0	58 0 0	34 0 0	531 0 0	474 0 0	
389 0 0	12 0 0	105 0 0	29 0 0	118 0 3	109 0 3	
204 0 0	2 0 0	68 0 0	53 0 0	146 8 0	138 8 0	
405 0 0	4 0 0	60 5 0	54 3 0	323 12 0	286 12 0	
244 0 0	16 0 0	117 0 0	116 0 0	227 0 0	325 0 0	
304 0 0	20 0 0	69 4 0	69 4 0	230 9 0	190 5 0	
674 0 0	699 0 0	234 12 0	222 12 0	214 0 0	213 0 0	
1,045 0 0	995 0 0	323 2 6	323 2 6	436 0 0	426 0 0	
1,104 0 0	1,102 0 0	374 1 0	373 1 0	653 0 0	447 0 0	
1,441 0 0	1,455 0 0	547 9 6	513 14 6	1,046 15 6	1,022 11 0	
1,591 0 0	1,643 0 0	503 9 3	503 9 3	944 7 0	941 7 0	

DACCA DIVISION.

Showing the amount of Landlords' fees paid and the amount of such fees held in deposit under sections 12, 13 of the Bengal Tenancy Act.

DACCA.		MYMENSINGH.		FARIDPUR.		BACKSBOUNGE.		REMAI
Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		
Realised.	Held in deposit.	Realised.	Held in deposit.	Realised.	Held in deposit.	Realised.	Held in deposit.	
2	3	4	5	6	7	8	9	10
Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
494 0 0	54 0 0	809 15 0	641 9 0	6 0 0	6 0 0	50 0 0	50 0 0	
1,200 0 0	223 0 0	1,041 8 6	1,856 8 6	2,827 8 0	986 15 6	3,940 7 3	2,618 6 3	
3,046 0 0	1,847 0 0	2,163 1 0	2,186 1 0	2,043 8 6	1,881 12 2	9,787 13 1	7,910 6 10	
2,070 0 0	1,712 0 0	1,579 7 0	1,562 7 0	2,609 11 0	1,816 8 3	8,013 12 6	7,775 4 8	
452 0 0	320 0 0	1,012 11 0	1,008 11 6	1,129 11 0	1,003 11 0	3,346 6 8	3,822 12 4	
302 0 0	246 0 0	585 14 0	580 6 0	955 12 0	746 12 0	2,032 8 8	2,006 0 8	
290 0 0	181 0 0	161 9 0	146 11 0	901 1 8	811 6 8	3,151 15 8	3,132 14 5	
208 0 0	195 0 0	106 10 0	95 4 0	999 8 9	864 8 9	3,122 9 6	3,009 9 6	
257 0 0	193 0 0	71 0 0	68 0 0	952 11 0	767 11 0	2,741 0 9	2,658 6 9	
341 0 0	264 0 0	335 0 0	233 0 0	683 13 0	615 13 0	2,480 0 3	2,410 5 3	
207 0 0	128 0 0	429 1 0	265 1 6	775 8 0	722 8 0	2,086 7 6	2,782 9 6	
217 0 0	175 0 0	354 8 0	281 4 0	716 12 9	711 12 9	5,951 14 0	5,685 7 0	
161 0 0	155 0 0	306 6 0	366 6 0	808 14 3	786 14 3	4,967 10 9	4,636 15 6	
330 0 0	230 0 0	349 14 0	347 14 0	642 13 9	506 4 9	3,912 4 9	3,851 2 5	
775 0 0	755 0 0	862 10 0	862 10 0	1,008 3 1	1,076 3 1	6,861 8 0	6,106 0 0	
2,996 0 0	2,996 0 0	2,311 9 3	2,244 0 3	2,561 7 0	2,559 7 0	14,729 12 1	14,100 6 1	
3,110 0 0	3,119 0 0	2,996 6 3	2,966 6 3	2,304 6 9	2,280 6 9	17,783 1 7	17,680 11 7	
3,672 0 0	3,660 0 0	3,016 3 0	3,016 3 0	2,502 6 0	2,380 6 0	18,008 14 6	17,951 9 6	
3,394 0 0	3,382 0 0	3,980 9 0	3,980 9 0	2,219 9 0	2,118 9 0	20,110 2 0	20,017 15 0	
23,610 0 0	19,425 0 0	22,423 15 9	21,650 9 0	26,709 5 6	22,653 9 11	1,35,323 5 6	1,29,346 16 5	

CHITTAGONG DIVISION.

Statement showing the amount of Landlords' fees paid and the amount of such fees held in deposit under sections 12, 13 and 15 of the Bengal Tenancy Act.

YEAR	TIPPERA.		NOAKHALI		CHITTAGONG		REMARKS
	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		
	Realised.	Held in deposit.	Realised.	Held in deposit.	Realised.	Held in deposit.	
1	2	3	4	5	6	7	8
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
1885-86	28 0 0	29 0 0	Nil	Nil	316 14 6	315 2 6	
1886-87	2,304 0 0	777 0 0	7,616 0 0	5,090 0 0	496 8 0	436 0 0	
1887-88	2,130 0 0	1,042 0 0	5,042 0 0	2,117 0 0	676 0 0	116 0 0	
1888-89	1,564 0 0	534 0 0	3,626 0 0	1,129 0 0	549 0 0	642 4 0	
1889-90	750 0 0	313 0 0	1,627 0 0	631 0 0	639 4 0	420 0 0	
1890-91	647 0 0	517 0 0	1,501 0 0	706 0 0	294 0 0	318 0 0	
1891-92	537 0 0	387 0 0	1,120 0 0	612 0 0	790 0 0	678 0 0	
1892-93	739 0 0	581 0 0	1,146 0 0	709 0 0	640 0 0	536 0 0	
1893-94	631 0 0	413 0 0	1,237 0 0	676 0 0	796 2 9	996 6 3	
1894-95	669 0 0	468 0 0	1,030 0 0	617 0 0	1,447 4 0	1,736 0 0	
1895-96	544 0 0	362 0 0	1,313 0 0	677 0 0	1,360 0 0	1,116 0 0	
1896-97	719 0 0	501 0 0	1,593 0 0	960 0 0	1,246 4 0	1,132 4 0	
1897-98	781 0 0	787 0 0	1,437 0 0	1,141 0 0	4,096 0 0	3,410 0 0	
1898-99	636 0 0	566 0 0	1,404 0 0	1,141 0 0	4,007 0 0	3,586 0 0	
1899-1900	1,310 0 0	1,365 0 0	3,130 0 0	3,038 0 0	6,817 0 0	6,302 0 0	
1900-01	3,021 0 0	3,006 0 0	8,046 0 0	7,816 0 0	21,939 0 0	21,169 0 0	
1901-02	3,094 0 0	3,073 0 0	7,444 0 0	6,467 0 0	27,760 0 0	26,139 0 0	
1902-03	3,440 0 0	3,359 0 0	7,363 0 0	5,668 0 0	30,474 0 0	28,968 0 0	
1903-04	2,902 0 0	2,978 0 0	7,861 0 0	6,718 0 0	18,467 0 0	4,828 0 0	
Total	26,365 0 0	20,917 0 0	63,516 0 0	44,636 0 0	1,31,783 3 3	97,176 10 9	

PATNA

Statement showing the amount of landlords' fees paid and the amount of such

YEAR.	PATNA.		GAYA.		SHAHABAD.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.
	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		
	Realized.	Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.	
1	2	3	4	5	6	7	8
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1885-86 ...	31	31		...	436	115	21
1886-87 ...	738	733	1,091	776	2,418	819	3,728
1887-88 ...	486	101	1,070	653	2,343	1,106	1,106
1888-89 ...	253	104	1,242	1,000	2,065	863	387
1889-90 ...	144	20	689	505	237	113	300
1890-91 ...	645	328	842	592	217	137	342
1891-92 ...	83	23	870	607	103	98	317
1892-93 ...	298	75	789	681	191	88	194
1893-94 ...	230	106	517	437	170	78	130
1894-95 ...	130	38	238	32	170	69	128
1895-96 ...	135	9	46	38	120	50	114
1896-97 ...	903	147	103	79	175	53	93
1897-98 ...	210	148	199	175	210	94	212
1898-99 ...	100	100	123	22	152	111	102
1899-1900 ...	219	219	386	163	1,091	998	520
1900-01 ...	769	763	868	550	5,797	5,065	1,720
1901-02 ...	924	621	1,336	1,015	5,909	5,276	2,399
1902-03 ...	701	701	1,333	1,300	5,454	4,581	2,191
1903-04 ...	667	667	1,127	1,090	5,481	4,009	2,139
Total ...	7,018	5,303	12,859	9,784	32,538	24,112	16,146

DIVISION.

fees held in deposit under sections 12, 13 and 15 of the Bengal Tenancy Act.

SADAR.	CHAMTARAN.		MCHAPPANPUR.		DABDHARGA.		REMARKS.
	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.	
Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.	
9	10	11	12	13	14	15	16
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
21	1,300	1,107	256	...	...	...
3,240	1,424	1,278	1,459	358	2,111	485	
1,108	128	126	677	98	1,300	809	
334	64	64	787	81	938	481	
240	238	54	597	343	646	371	
286	21	23	455	177	402	170	
226	870	126	348	111	401	216	
171	3	3	268	17	273	106	
106	21	13	308	64	353	246	
128	415	1	64	21	289	163	
97	52	27	50	18	233	166	
72	96	21	265	114	213	128	
203	120	96	316		121	96	
96	163	128	178	112	80	80	
464	334	297	434	367	267	255	
1,407	911	286	2,119	1,446	1,066	1,623	
2,027	911	466	2,315	2,123	1,843	1,703	
1,623	728	427	2,218	2,045	2,051	1,866	
1,540	727	549	1,864	1,785	1,606	1,528	
12,501	8,104	5,204	14,928	9,320	16,954	9,292	

WORKING OF THE CHAUKIDARI ACT (BENGAL ACT VI OF 1870)

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked :—

Is the Government aware that the word "house" or "holding" not being defined in the Chaukidari Act (Ben. Act VI of 1870, as amended by Ben. Act I of 1892), the provisions of that enactment, as regards the fixing of the number of chaukidars required for any village or local area and the assessment of tax upon the occupiers of houses or holdings therein, are being worked in many places by arbitrarily dividing each particular house or holding into as many houses or holdings as there are huts in the occupation of persons dwelling separately, owing mostly to the disruption of an original joint family, although they may be all situated in the same compound and within the same set of boundaries? That by this method the number of chaukidars now employed in such places is largely in excess both of their actual requirements as well as of the limit permissible by law, and that in consequence the taxes annually imposed on the villagers have also largely increased to the extreme hardship and annoyance of specially the poorer classes of the village population without however any adequate equivalent in return? And will the Government be pleased to institute a searching inquiry into the actual working of this Act with special reference to the manner in which and the person or persons by whom the number of houses and chaukidars in any village or area is practically determined under section 11, and what, if any, check is actually exercised by the District Magistrates under section 20 upon the assessments imposed by the panchayats under section 13 of the Act?

The Hon'ble MR. CARLYLE replied :—

"As the Hon'ble Member is probably already aware, the Lieutenant-Governor has decided to place Mr. H. Savage, C.S.I., a senior officer with great experience of chaukidari administration, on special duty during the present cold season, to inquire and report generally on the working of the Chaukidari Act and matters connected therewith, and the points to which the Hon'ble Member draws attention in the last portion of his question will no doubt receive that officer's consideration."

ASSESSORS IN SESSIONS CASES

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked :—

(a) Will the Government be pleased to inquire how the system of trial with the aid of Assessors in Sessions cases has worked in the less advanced districts since the promulgation of the Government Notification No. 23618, dated the 19th April, 1897?

(b) Will the Government be pleased to consider whether in the interest of the administration of justice it would not be desirable to withdraw the said Notification?

The Hon'ble MR. CARLYLE replied :—

"(a) Government has adequate information of the working of the system of trial with the aid of Assessors in Sessions cases in all districts; and there is no ground for ordering an inquiry in any district.

"(b) There is no reason to believe that the exemption of legal practitioners from service as Assessors, to which the Hon'ble Member refers, has in any way conflicted with the interests of justice during the seven years it has been in force. Government has therefore no intention of withdrawing the notification of 1897."

BHAGALPUR DIVISION.

showing the amount of landlords' fees paid and the amount of such fees held in deposit under sections 12, 13 and 15 of Act.

MORCHUR.		BHAGALPUR.		PURNA.		MALDA.		REMARKS.
Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		Landlords' fees under sections 12, 13 and 15 of the Bengal Tenancy Act.		
Realized.	Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.	Realized.	Held in deposit.	
2	3	4	5	6	7	8	9	10
Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
...	...	1,326 11 0	479 13 0	1,432 10 3	807 6 9	(a) Cannot be correctly ascertained as the Nazir's subsidiary registers in which the fees were entered have been destroyed.		(a) It appears from the Deposit Registers of the Account office that in 1883-86 Rs. 168 were deposited and paid to the landlords, and in 1886-87 Rs. 711-12-6 were deposited, out of which Rs. 431 were paid to the landlords and the balance Rs. 280-12-6 is still in deposit.
841 0 0	559 0 0	1,090 0 1	558 0 1	1,308 14 9	901 5 6	1,892 4 1	557 7 9	
1,330 0 0	778 0 0	410 14 0	340 6 3	764 15 6	706 3 6	1,196 8 5	403 10 2	
745 0 0	469 0 0	453 0 0	206 3 6	330 9 4	201 9 4	162 12 0	157 13 0	
592 0 0	200 0 0	453 0 6	211 14 5	389 0 9	207 4 9	368 8 0	244 4 0	
254 0 0	183 0 0	720 0 0	290 7 0	162 6 0	166 6 0	278 0 0	181 0 0	
407 6 1	297 11 1	801 0 0	372 4 3	241 11 0	241 11 0	308 14 6	193 4 6	
503 1 0	150 10 9	642 0 0	374 3 9	483 10 0	451 10 0	106 6 0	76 2 6	
587 0 0	233 0 0	632 0 0	307 14 0	122 4 4	122 4 4	38 0 0	36 12 0	
296 11 0	233 1 0	Not mentioned in the register	291 9 6	177 8 9	178 6 9	64 0 0	40 0 0	
690 13 3	690 13 3	Ditto	308 15 9	65 2	40 3 6	53 0 0	35 0 8	
751 13 3	747 13 3	634 13 6	633 13 6	146 4 0	111 13 0	74 14 0	78 0 0	
346 4 0	346 4 0	684 0 3	413 0 3	229 7 0	160 15 11	44 0 0	43 0 0	
668 3 0	664 3 0	346 6 9	344 6 9	316 13 9	197 13 9	63 8 0	63 8 0	
2,578 0 0	2,420 0 0	1,463 2 0	1,816 2 0	184 2 0	182 2 0	225 6 0	173 6 0	
2,796 6 10	2,661 6 10	1,843 14 6	1,820 14 6	638 11 4	347 2 4	138 0 0	136 0 0	
4,173 0 6	4,016 0 6	1,379 4 6	1,373 4 6	406 6 0	243 6 0	284 0 0	280 0 0	
3,844 15 0	3,708 15 0	1,166 16 0	1,160 16 0	281 2 6	278 2 6	286 11 9	280 3 9	
21,186 7 11	16,364 12 8	14,404 1 7	11,486 4 6	7,617 10 4	5,821 14	5,851 8 2	2,940 1 4	

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(b) Will the Government be pleased to consider whether in the interest of the administration of justice it would not be desirable to withdraw the said Notification?

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"(b) There is no reason to believe that the exemption of legal practitioners from service as Assessors, to which the Hon'ble Member refers, has in any way conflicted with the interests of justice during the seven years it has been in force. Government has therefore no intention of withdrawing the notification of 1897."

LEGAL PRACTITIONERS AS HONORARY MAGISTRATES.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked :—

Is the Government aware that the system of recruiting Honorary Magistrates from among village people is being carried to excess, and that even in towns, including the head-quarter stations of districts, the enforcement of the Government letter, Judicial Department, No 82J.D., dated the 30th May, 1898, prohibiting the appointment of legal practitioners as Honorary Magistrates, has practically divested the Benches of such Magistrates of all qualified and public-spirited men, and that in consequence the classes of people who now generally compose such Benches have proved less efficient and have failed to inspire confidence in public minds? Will the Government be pleased in the best interest of the public as well as of the administration to withdraw the said prohibition?

The Hon'ble MR. CARLYLE replied :—

"The letter of this Government to which the Hon'ble Member refers (No. 82J.D., dated 30th May, 1898) does not prohibit the appointment of legal practitioners as Honorary Magistrates, except under the circumstances stated in section 557 of the Code of Criminal Procedure. That letter merely draws attention to a change made in the law in 1898, so that proceedings might not be vitiated by inadvertent contravention of the provisions of the law as amended. There is no reason, therefore, to withdraw that letter.

"This Government values the power to utilise the services of lawyers on the Bench of Honorary Magistrates, provided that it is exercised in accordance with the provisions of the law, and also with a sound discretion, so as to secure suitable practitioners able to give due attention to their magisterial work. But it cannot be admitted (as seems to be implied in the wording of the question) that 'qualified and public-spirited men' are 'practically' to be found only among the members of the Bar practising before the Magistrates' Courts. Nor does it appear that any real difficulty in securing the services of suitable Honorary Magistrates need result from the amendment of the law to which reference has been made."

TRAVELLING ALLOWANCE TO OFFICIATING MUNSIFS.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked :—

Will the Government be pleased to take into consideration the hard condition under which Officiating Munsifs have to work during the period of their temporary appointments? And having regard to the fact that even after they revert from their first officiating appointment they practically lose all their practice as pleaders and have thenceforward to depend almost entirely upon the small salaries they are able to earn during their officiating services, generally for very short periods and at long intervals, and which in some instances are barely sufficient to cover the expenses of the long and inconvenient distances that they have to travel, will the Government be pleased to provide for some sort of travelling allowances for these deserving officers?

The Hon'ble MR. CARLYLE replied :—

"The question of the grant of travelling allowance to Officiating Munsifs is already under the consideration of Government."

THE BHOWAL ESTATE.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked :—

Has the attention of the Government been drawn to a correspondence from Dacca published in the *Bengalee* of the 9th October last, and to the articles which appeared in the said newspaper of the 11th and 12th idem, about the action alleged to have been taken by the Magistrate-Collector of Dacca in

regard to the Bhowal Estate? Is it true that the said Estate has been taken over by the Court of Wards, and that against legal opinion of the Advocate-General and of the Legal Remembrancer and without hearing the Rani's counsel? Is it a fact that on or about the 5th October the Magistrate of Dacca proceeded to Joydebpur accompanied by the District Superintendent of Police and Mr. Myera, the dismissed Manager of the Estate, together with a detachment of the Reserve Police, and demanded the widowed Rani to vacate the Palace and make over charge of the Estate within ten minutes, although the Rani wanted only a day's time to finish a certain ceremony in which she was engaged at the time? Is it also a fact that the Rani fainted away at the demonstration of force made by the Magistrate, and that the demands of the latter were peremptorily enforced without any regard to the Rani's helpless condition at the time? If so, does the Government approve of the proceeding of the Board in ordering the Estate to be taken over by the Court of Wards, and does the Government also approve of the action of the Magistrate of Dacca in taking over charge of the Estate in the manner disclosed in the aforesaid correspondence and articles? Will the Government kindly inquire where the Rani is at present and in what condition? And will the Government be pleased to lay on the table the order of the Board of Revenue, together with all the reports and correspondence which have led to the taking up of the Estate by the Court of Wards, including the opinions of the Advocate-General and the Legal Remembrancer on the subject?

The Hon'ble MR. EARLE replied :—

“The replies to the enquiries made by the Hon'ble Member are:—

“(1) The attention of Government has been drawn to the correspondence and articles referred to on the subject of the assumption of charge of the Bhowal Estate by the Court of Wards. It is true that the Estate in question has been taken under the management of the Court; but this step was not taken contrary to legal advice, as alleged. In July last the Commissioner of Dacca applied to the Board of Revenue to declare the Rani to be disqualified, and to assume charge of the Estate in order to save the property from the ruin which was likely to result from gross mismanagement and the tenants from oppression and illegal and extortionate proceedings. Although fully satisfied on the evidence adduced as to the advisability of taking charge of the Estate, the Board did not take action at once, as the Rani was only a trustee and not the proprietress of the Estate.

“(2) Subsequently on the 27th September last the eldest son of the late Raja, Kumar Ronendra Narayan Roy, submitted a memorial in which he cited instances of gross mismanagement of the Estate on the part of the Rani, and applied to be declared a disqualified proprietor under section 6 (c) of the Court of Wards Act. Inasmuch as he and his brothers were the proprietors of the Estate, and as it appeared expedient in the public interest that the Estate should be managed by the Court of Wards, the Local Government declared the eldest Kumar to be a disqualified proprietor under section 6 (c) of the Act, in accordance with his request. The two other sons of the late Raja, who are minors within the meaning of section 3 of the Act, were declared by the Board of Revenue to be disqualified under section 6 (b) of the Act. The instances of mismanagement which have come to light since the assumption of the charge of the Estate are many and gross, and fully substantiate the assertions made by Kumar Ronendra Narayan Roy.

“(3) The application made to the Board of Revenue by the Rani to be heard by Counsel was received after orders had been issued by Government that the Estate should be taken under the management of the Court of Wards.

“(4) The Magistrate of Dacca proceeded to Joydebpur on the morning of the 6th October, 1904, accompanied only by the Assistant Magistrate and two chuprasis. The late Manager (Mr. Meyer, an Inspector of Police, and eight constables followed later in the day. The District Superintendent of Police did not visit Joydebpur at all. The attendance of the police was necessary for the purpose of guarding the treasure; while the presence of Mr. Meyer was required

in connection with the tracing out of certain important papers of the Estate which, there was evidence to show, had been concealed. The Rani was never asked to vacate the Palace, nor was she required to make over charge of the Estate within ten minutes, as alleged. On arrival at Joydebpur in the forenoon of the date indicated, the Magistrate communicated to the Rani the orders under which he was acting, and caused to be delivered to her a letter from the Court of Wards addressed to herself. He also called upon her to make over to him the money and papers belonging to the Estate. In reply the Rani stated that all the money that she had was in the treasury, and that she knew nothing about the papers referred to. Inasmuch as only Rs. 1,400 had been found in the treasury, and the Magistrate had proof that a considerable sum of money was in the possession of the Rani and that important papers had been concealed, he was unable to accept this answer. He therefore communicated repeatedly with the Rani on the subject, informing her that he would have to make a search unless the money and papers were produced. The same reply being however invariably received, he commenced a search in the presence of the Rani's people. As evening was approaching, however, only one or two rooms were examined, further action being postponed till the next day. On that day the required papers were found carefully concealed in a cellar, while on the third day a sum of Rs. 36,000 was made over by the Rani to the Magistrate.

"(5) The Magistrate was informed that the Rani fainted on the day on which he assumed charge of the Estate, but he is unable to say if the report was correct or not. He heard that she had been fasting on that day. As shown in the last reply, the action taken by the Magistrate was due to the refusal of the Rani to comply with his orders; and he cannot be blamed in respect of his proceedings.

"(6) There appears to be no reason for making any enquiry as regards the present residence of the Rani and her condition. The lady is, it is understood, in Calcutta. She is in correspondence with the Court of Wards on matters of business connected with the Estate.

"(7) Government sees no reason for laying the papers of this case on the table."

SURVEY OPERATIONS IN THE FARIDPUR DISTRICT.

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked:—

In view of the Government Notification No. 2152T.R., dated the 19th September, 1904, published in the Calcutta Gazette of the 28th idem, appointing, under section 4 of the Bengal Survey Act (Bengal Act V of 1875), an Assistant Superintendent of Survey in the District of Faridpur, may I inquire if it is in the contemplation of Government to extend the cadastral survey operations to that district? And, if so, will the Government be pleased to state upon what grounds it is proposed to do so?

The Hon'ble MR. EARLE replied:—

"1. It is in the contemplation of Government to extend the cadastral survey and settlement operations to the district of Faridpur; and the sanction of the Government of India to this proposal has already been obtained.

"2. The principal ground upon which it has been decided to take this step is that the revenue survey on which the existing maps of Faridpur are based was made half a century ago. Owing to vast changes which have occurred in the courses of the big river and to the silting up of extensive morasses during the past 50 years, this survey is at the present time an extremely indifferent guide even to the bounds of the villages of which it took note. Agrarian disputes have, in consequence, been rife for many years past in all parts of the district. The district is one in which much turbulence prevails. In the year 1900 the number of cases of rioting in Faridpur exceeded that of any other district of the Dacca Division, except Backergunge; while in the year 1901

this district headed the list of all districts of the province as regards this form of crime. The Commissioner of the Division reports that quarrels about land provide occupation for half the magisterial establishment and for more than half the Civil Court establishment of the district; and that in the year 1902 disputes of this nature were responsible for the institution of 2,500 title suits in the local Civil Courts. These constant disputes entail much expense and trouble upon both landlords and tenants."

PROPOSED PARTITION OF BENGAL

The Hon'ble BABU AMBIKA CHARAN MAZUMDAR asked:—

Has the attention of the Government been drawn to the statements made in the *Pioneer*, the *Englishman* and the *Bengalee* newspapers that it is practically settled to divide Bengal and that a new scheme has been devised to effect this partition? Are these statements correct? And, if so, will the Government, in view of the panic which they have created, be pleased to make an announcement for the information of the public explaining the nature and the scope of this new scheme?

The Hon'ble MR. CARLYLE replied:—

"The matter of the proposed partition of Bengal is before the Government of India, and the Lieutenant-Governor is not in a position to make any statement regarding it."

THE RANCHI-PURULIA LIGHT RAILWAY.

The Hon'ble BABU KALI PADA GHOSH asked:—

Will the Government be pleased to state whether the proposed Ranchi-Purulia Light Railway has been sanctioned by the Secretary of State and the Government of India, and, if so, when the work of construction will be taken in hand?

The Hon'ble MR. HORN replied:—

"The Government of India have sanctioned the survey of a line from Purulia to Ranchi by the agency of the Bengal-Nagpur Railway Company, and placed the same under the control of the Consulting Engineer to the Government of India for Railways, Calcutta. It is not possible at present to say when the construction of the railway will be taken in hand."

ALLEGED ASSAULT ON A FEMALE PASSENGER AT JAMALPUR.

The Hon'ble BABU KALI PADA GHOSH asked:—

(a) Has the attention of the Government been drawn to a letter of the Jamalpur correspondent of the *Bengalee*, published in its issue of the 25th October last, alleging that an European employé of the East Indian Railway attempted to outrage the modesty of a female passenger in the third class waiting-room at the Jamalpur Railway Station? Will the Government be pleased to state whether an investigation has been made into the matter, and, if so, with what result?

(b) Considering the fact that such occurrences are calculated to produce serious apprehensions in the mind of the travelling public, will the Government be pleased to take special notice of such cases and see that they are not hushed up or disposed of with mere nominal punishment of the culprits concerned?

The Hon'ble MR. HORN replied:—

"It has been ascertained from the Consulting Engineer for Railways that the alleged assault on a female passenger, referred to in this question, was investigated at the time by the Inspector of the Government Railway Police at Jamalpur. He satisfied himself that no complaint had been made by the

woman, and that no assault or impropriety of any kind had been committed in respect of her. He submitted a detailed report of his enquiry for the information of the Assistant Inspector-General of Railway Police.

"An independent enquiry was held by the Railway district officials, who arrived at the same conclusion. The place of the alleged occurrence was the entrance hall near the booking window, which is well lit. There were several passengers close by in the hall and on the platform. It appears that the allegation was made without foundation by a member of the station staff.

"The action taken by the Railway authorities and by the Police appears to have been prompt and adequate. There was no need of any interference on the part of Government."

PASSENGER TRAFFIC ON THE EAST INDIAN AND BENGAL-NAGPUR RAILWAYS.

The Hon'ble BABU KALI PADA GHOSH asked:—

Will the Government be pleased to invite the attention of the railway authorities to the overcrowding in the trains, as complained of by the *Pioneer* in its issue of the 18th April last, and to which Max refers in the following terms in the columns of the *Capital*:—"I hear that the Howrah Station last Thursday night was a scene of almost indescribable confusion, owing to the accommodation provided by the East Indian and the Bengal-Nagpur Railways being wholly inadequate. Passengers were fighting for places in the Punjab and Madras mail trains like beasts at Ephesus and numbers were left behind. Now if the trains departed from the terminus crammed in this manner, what chances had passengers at wayside stations? The utter unconcern displayed for the passenger traffic is one of the crying scandals of Indian Railway Administration?"

The Hon'ble MR. HORN replied:—

"The complaints made in the *Pioneer* of the 18th April and referred to in *Capital* have received the attention of the Railway Authorities concerned.

"Large sums are being spent by the Bengal-Nagpur Railway in enlarging the platform and waiting accommodation. The system of ticket-checking for entraining passengers is now being discussed with the East Indian Railway with a view to its improvement.

"As regards overcrowding on the 14th April last, there are no registered complaints. It is possible there was some circumstance which affected that particular date, but after this lapse of time it cannot now be ascertained.

"In regard to overcrowding generally, it has been ascertained that a large number of passengers detained at Kharagpur. The question of increasing the number of trains is under consideration, but the necessity for an increased train service has yet to be proved.

"As regards the East Indian Railway, it has been explained that the difficulty at Howrah is not so much one of overcrowded trains as the difficulty of obtaining access to the trains. From the 13th instant the two most crowded trains are being dealt with at the new station, and it is anticipated that this arrangement will work satisfactorily.

"In order to improve the running of the Punjab mail train, the question of running relief trains twice or three times a week during the months of April and May is under consideration."

THE SMOKE-NUISANCES BILL, 1904.

The Hon'ble MR. CARLYLE moved for leave to introduce a Bill to amend the law relating to the abatement of nuisances arising from the smoke of furnaces or fire-places in the town and suburbs of Calcutta and in Howrah, and to provide for the extension thereof to other areas in Bengal. He said:—

"I do not propose to-day to make any detailed remarks regarding the Bill. These I propose to postpone till next meeting. To-day I will only touch on the main points of the Bill which I ask leave to introduce.

"The fact of the existence of the smoke nuisance is patent to us all, and I think all who have known Calcutta for some time will agree that it is continually increasing as new factories are opened. Over 40 years ago, Bengal Act II of 1863 was passed dealing with this very matter, but it has proved completely ineffectual. The reason of this is that, in order to procure a conviction under the Act, it is not sufficient to prove that smoke is omitted in such quantities as to prove a nuisance. Under the Act it is now held necessary to formulate a charge of nuisance under one of the following heads: (a) 'improper construction,' (b) 'negligent use' and (c) 'absence of the best means for preventing or counteracting of smoke.' These conditions involve detailed references to the construction and manner of using the furnaces, and it is impossible to prove negligence or faulty construction in such a way as to obtain a conviction in a Magistrate's Court.

"In 1903, the Secretary of State appointed an expert, Mr. Grover, to enquire and report into the whole matter. He submitted a report in July, 1903, and the Bill now introduced is largely based on the recommendations made in his report. The main points of the Bill are as follows: In the first place, the Bill applies to Calcutta and Howrah, but Government takes to itself the power to extend it hereafter to other areas in Bengal. In the second place, there are brick and lime kilns and certain furnaces for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals, or for the conversion of pig iron into wrought iron and the manufacture of coke which cannot be carried on at all without the omission of smoke in such quantities as to constitute a nuisance. Government therefore propose to take power in the cases specified to forbid altogether the erection of lime or brick kilns, or the construction of furnaces of the kind specified above and the manufacture of coke within certain specified areas. The next point in the Bill is that when furnaces are erected, in order to obtain a conviction in Court, all that it will be necessary to prove will be that smoke is emitted from chimneys in such quantities as to constitute a nuisance. Government also takes under this Bill power to direct that furnaces are to be so constructed as not to admit of the emission of smoke so as to constitute a nuisance. Government may also order that furnaces already erected are to be altered or fitted with such appliances as will prevent a nuisance.

"As regards the working of the Act, the Bill proposes that the work should be supervised and controlled by a Commission. The President of the Commission is to be an official, half the Members will be officials, the remainder non-officials to be selected so as to represent the interests likely to be affected by this Act. I do not think it is necessary to-day for me to go into other details of the Bill. I will deal with the details of the Bill, if the Council accepts my motion for leave to introduce it, at the next meeting."

The Motion was put and agreed to.

THE SUNDARBANS BILL, 1904.

The Hon'ble MR. HARE moved for leave to introduce a Bill to provide for the abolition of the office of Commissioner in the Sundarbans. He said:—

"It is not necessary to make any long speech in applying for leave to introduce this short Bill for the abolition of the office of the Commissioner of the Sundarbans.

"It is enough to say that the Government are satisfied that the time has now come when the administration of the tract known as the Sundarbans which lies to the south of the districts of Backergunge, Khulna and 24 Parganas shall be wholly and in all respects administered by the Collectors of these several districts. For a long time, if we except only the making of settlements and the holding of enquiries as to whether the conditions of the old settlement leases have been carried out, the administration of this tract of country has been conducted by the District Officer. He controls excise, education, police and crime and chikidari, and the opening out of communications and other Government work, and it is thought that he should also exercise control in the important matters connected with settlements. This has become the more desirable,

since Government has decided on a new departure in the matter of settlements in this tract and proposes itself to reclaim and settle raiyats over a large part of this area.

"The District officers already have large khas mehal estates under their management, and it is better that any new estates of this description should be directly under their control.

"For these reasons and for the general improvement of the administration, it is desirable to place the entire administration of the Sundarbans tract under the District Officer, with the help of assistants who will be directly subordinate to him. The present system under which the Sundarbans Commissioner is independent of the District Officer will cease. The Bill which I now ask leave to introduce is to accomplish this object."

The Motion was put and agreed to.

The Council was then adjourned to Saturday, the 7th January, 1905.

CALCUTTA ;
The 20th December, 1904. }

L. C. ADAMI,
*Offg. Secretary to the Bengal Council,
and Asst. Secy. to the Govt. of Bengal,
Legislative Department.*

The Calcutta Gazette.

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PART V.

Acts of the Governor General's Council assented to by the Governor General

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General India in Council received the assent of the Governor General on the 22nd January 1904, and is hereby promulgated for general information:—

ACT NO. I OF 1904.

Act to provide for the regulation of the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic generally.

WHEREAS it is expedient to make provision for regulating the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic throughout the whole of British India, It is hereby enacted as follows:—

1. (1) This Act may be called the Poisons Act, 1904; and

(2) It extends to the whole of British India.

Poisons generally.

2. (1) Subject to the control of the Governor General in Council, the Local Government may, by rule, regulate within the limits of any municipality

or cantonment the possession for sale and the sale, whether wholesale or by retail, of any specified poison.

(2) In particular, and without prejudice to the generality of the power conferred by subsection (1), rules made thereunder may provide for, amongst other matters,—

- (a) the grant of licenses to possess any specified poison for sale, wholesale or by retail, and the fixing of the fee (if any) to be charged for such licenses;
- (b) the classes of persons to whom alone such licenses may be granted;
- (c) the classes of persons to whom alone any such poison may be sold;
- (d) the maximum quantity of any such poison which may be sold to any one person;
- (e) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;
- (f) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and
- (g) the inspection and examination of any such poison when possessed for sale by any such vendor.

(3) Any substance specified as a poison in a rule made under this section shall be deemed to be a poison for the purposes of this Act.

White Arsenic.

3. The Governor General in Council may, by notification in the Gazette of India, prohibit, except under and in accordance with the conditions of a license, the importation of white arsenic into British India, and may, by rule, regulate the grant of licenses and prescribe the conditions to be imposed thereby under this section.

4. (1) Subject to the control of the Governor General in Council, the Local Government may, by rule, regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or by retail, of white arsenic.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide, amongst other matters, for all or any of the matters specified in section 2, sub-section (2).

(3) Rules made under sub-section (1) may further provide that no person shall sell any powdered white arsenic unless the same is, before the sale thereof, mixed with soot, indigo or Prussian blue in the proportion of half an ounce of soot, indigo or Prussian blue at least to one pound of the white arsenic, and so in proportion for any greater or less quantity:

Provided that, where such arsenic is stated by the purchaser to be required for some purpose for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold, without such admixture, in a quantity of not less than ten pounds at any one time.

5. (1) The Local Government, with the previous sanction of the Governor General in Council, may further, by rule, regulate the possession of white arsenic in any local area in which murder by poisoning with that drug or the offence of mischief by poisoning cattle therewith appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.

(2) In making any rule under sub-section (1), the Local Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the white arsenic in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

Other Poisons.

6. (1) The Governor General in Council may, by notification in the Gazette of India, apply to any specified poison other

than white arsenic all or any of the provisions of this Act relating exclusively to white arsenic.

(2) Any substance specified as a poison in a notification issued under sub-section (1) shall be deemed to be a poison for the purposes of this Act.

Penalties and Procedure.

Penalty for unlawful importation, etc.

7. (1) Whoever,—

- (a) commits a breach of any rule made under section 2 or section 4, or
- (b) imports into British India, without a license, white arsenic the importation of which is for the time being restricted under section 3, or
- (c) breaks any condition of a license for the importation of white arsenic granted to him under section 3,

shall be punishable,—

- (i) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and
- (ii) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

(2) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, and, in the case of any offence mentioned in clause (b) or clause (c) of sub-section (1), any animals and conveyances used in carrying it, shall be liable to confiscation.

8. (1) The District Magistrate, the Sub-divisional Magistrate and, in a Presidency-town, the Commissioner of Police, respectively, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder or that any poison liable to confiscation under this Act is kept or concealed.

(2) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure, 1898, relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

9. (1) In addition to any other power to make rules hereinbefore conferred, the Governor General in Council, or, subject to the control of the Governor General in Council, the Local Government, may make rules generally to carry out the purposes and objects of this Act.

(2) Every power to make rules conferred by this Act shall be subject to the condition of the rules being made after previous publication.

(3) All rules made by the Governor General in Council or by the Local Government under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Savings.

10. (1) Nothing in this Act or in any license granted or rule made thereunder shall extend to or interfere with anything done in good faith in the exercise of his profession or business as such—

- (a) by a medical or veterinary practitioner, or
- (b) by a chemist or druggist duly qualified to act as such under the law for the time being in force in the United Kingdom, or
- (c) by a chemist, druggist or compounder dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner, or
- (d) subject to any rules for the time being in force under section 5, by a tanner or hide-merchant

(2) Notwithstanding anything hereinbefore contained, the Local Government may, in its dis-

cretion, by general or special order, declare that all or any of the provisions of this Act shall not be deemed to apply to any article, or class of articles, of commerce specified in such order, or to any poison, or class of poisons, used for any purpose so specified, and may, from time to time, alter or vary any such declaration.

(3) The authority on which any power to make rules under this Act is conferred may, by general or special order, exempt any person or class of persons, either generally or in respect of any poison or poisons specified in the order, from the operation of any such rules.

Repeals.

11. From such date as the Local Government may, by notification in the local enactments from local official Gazette, fix in notified dates. this behalf, the following enactments shall be repealed in the territories for the time being administered by the Governor of Bombay in Council and the Lieutenant-Governor of the United Provinces of Agra and Oudh respectively, namely:—

Bombay Act VIII of 1860 (*an Act to regulate and restrict the sale of Poisons in the Bombay Presidency*)

The North-Western Provinces and Oudh Municipalities Act, 1900 (*North-Western Provinces and Oudh Act I of 1900*), section 128, clause (2)

J. M. MACPHERSON,

Secretary to the Government of India.

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PART V.

Acts of the Governor General's Council assented to by the Governor General

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 20th February, 1904, and is hereby promulgated for general information:—

ACT NO. III OF 1904.

An Act to make further provision regarding the borrowing powers of certain local authorities.

WHEREAS it is expedient to make further provision regarding the borrowing powers of certain local authorities, It is hereby enacted as follows:—

1. (1) This Act may be called the Local Authorities Loan Act, 1904.

(2) It applies only to the local authorities specified in the schedule, and any other local authority to which the Governor General in Council may, by notification in the Gazette of India, extend its provisions.

2. Notwithstanding anything in any other enactment for the time being in force, but subject always to the provisions of section 25 of the Indian Paper Currency Act, 1882, a local authority may, with the previous sanction of the Governor General in Council, borrow money by means of the issue of bills repayable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force:

Provided that the amount of the bills which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local

authority is empowered by law to borrow.

3. Notwithstanding anything in any other enactment for the time being in force, a local authority may, with the previous sanction of the Governor General in Council, borrow money in any manner authorized by law for the purpose of repaying money previously borrowed in accordance with law:

Provided that nothing in this section shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force.

4. The Governor General in Council may, by general or special order regulate the conditions on which money may be borrowed or repaid under this Act.

THE SCHEDULE.

(See section 1.)

The Corporation of Calcutta.
The Commissioners for the Port of Calcutta.
The Municipal Corporation of the City of Bombay.
The Trustees of the Port of Bombay.
The Municipal Commissioners for the City of Madras.
The Trustees of the Harbour of Madras.
The Municipal Committee of Rangoon.
The Commissioners for the Port of Rangoon.
The Municipality of Karachi.
The Trustees of the Port of Karachi.
The Trustees for the Improvement of the City of Bombay.

J. M. MACPHERSON,

Secretary to the Government of India.

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PART V.

Acts of the Governor General's Council assented to by the Governor General

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 4th March, 1904, and is hereby promulgated for general information:—

ACT NO. V OF 1904.

An Act to amend the Indian Official Secrets Act, 1889.

WHEREAS it is expedient to amend the Indian Official Secrets Act, 1889; It is hereby enacted as follows:—

1. This Act may be called the Indian Official Secrets (Amendment) Act, 1904.
Short title.
2. In section 2 of the Indian Official Secrets Act, 1889, the word "and", where it occurs between clauses (5) and (6), shall be omitted, and after the latter clause the following shall be added, namely:—
"and
(7) "civil affairs" means affairs—
(a) affecting the relations of His Majesty's Government or of the Governor General in Council with any foreign State, or
(b) affecting the relations of the Governor General in Council with any Native State in India, or relating to the public debt or the fiscal arrangements of the Government of India or any other important matters of State, where these affairs are of such a confidential nature that the public interest would suffer by their disclosure."

3. In section 3 of the said Act, the following alterations shall be made, namely:—
Amendment of section 3, Act XV, 1889.

- (a) in sub-section (1), sub-head (a), clause (i), the word "office" shall be omitted;
- (b) in clause (ii) of the same sub-section: sub-head,—
 - (i) after the word "aforesaid", the words "or in any office belonging to His Majesty" shall be inserted;
 - (ii) after the words "obtains", "obtains and "takes", the words "or attempts to obtain", "or any copy of any such document, sketch, plan or model and "or attempts to take", respectively, shall be inserted, and
 - (iii) for the word "anything" the words "any naval, military or civil affairs of His Majesty" shall be substituted;
- (c) in sub-head (c) of the same sub-section and in sub-section (2), for the word "naval or military" the words "naval, military or civil" shall be substituted
- (d) after sub-section (1), the following shall be inserted as sub-section (2), and the present sub-sections (2) and (3) shall be renumbered sub-sections (3) and (4):—
"(2) Where a person commits any act specified in clauses (i), (ii) and (iii) of sub-section (1), sub-head (a), without lawful authority or permission (the proof of which authority or permission shall be upon him), the Court may presume that he has committed such act for the purpose of wrongfully obtaining information;" and
- (e) for the words "in the interest of the State" wherever they occur, the words "in the public interest" shall be substituted.

4. In section 4, sub-section (1), of the said Act, the words "in the interest of the State or otherwise" shall be omitted.

Amendment of section 4, Act XV, 1889.

5. For section 5 of the said Act the following sections shall be substituted, namely:—

Substitution of sections for section 5, Act XV, 1889.

98. "5. (1) Notwithstanding anything in the Code of Criminal Procedure, 1898, every offence against this Act committed in relation to any fortress, arsenal, factory, dockyard, camp or ship belonging to His Majesty, or in relation to the naval or military affairs of His Majesty, shall, for the purposes of the said Code, be deemed to be cognizable:

Provided that a person accused of any such offence shall not be released on bail unless on the order of a Magistrate of the first class.

(2) Every other offence against this Act shall be non-cognizable.

1860. "6. (1) Any person, being a public servant as defined in the Indian Penal Code, may arrest any person who in his view commits any of the offences described in section 5, sub-section (1), and any such person, or any police-officer who has arrested any person on a charge of any such offence, and any police-officer to whom any person arrested on any such charge has been made over, shall take or send him before the officer for the time being in command or charge of

the fortress, arsenal, factory, dockyard, camp or ship, or of the nearest military station, or before a Magistrate of the first class.

(2) Where any person has been taken or sent before the commanding or other officer in accordance with sub-section (1), such officer may, if he thinks fit, discharge such person, but if he does not discharge him, shall, without unnecessary delay, take or send him to the nearest police-station or to any Magistrate of the first class.

(3) Where any person has been taken or sent to a police-station or to a Magistrate under sub-section (2), the provisions of the Code of Criminal Procedure, 1898, shall, save as otherwise provided by section 7, apply to him as though he had been taken to such police-station or Magistrate without being taken or sent before the commanding or other officer.

"7. (1) No Magistrate of the second class shall have jurisdiction to try any person for an offence against this Act.

(2) No Court shall proceed to the trial of any person for an offence against this Act, except with the consent of the Local Government or the Governor General in Council."

6. For the expression "Her Majesty", wherever it occurs in the said Act, the expression "His Majesty" shall be substituted.

Alteration of expression "Her Majesty".

J. M. MACPHERSON,
Secretary to the Government of India.

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PART V.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General India in Council received the assent of the Governor General on the 11th March, 1904. It is hereby promulgated for general information:—

ACT No. VI. OF 1904.

Act further to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient further to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:—

1. This Act may be called the Transfer of Property (Amendment) Act, 1904.

2. In the fourth paragraph of section 1 of the said Act, after the words "extend this Act" the words "or any part thereof" shall be inserted.

3. In the second paragraph of section 59 of the said Act, for the words "an instrument" the words "a registered instrument" shall be substituted.

4. In the last paragraph of section 59 and in clause (c) of section 69 of the said Act, for the words "and Rangoon" and for the words "or Rangoon" the words "Rangoon, Moulmein, Bassein and Akyab" and the words "Rangoon, Moulmein, Bassein or Akyab" shall be respectively substituted.

5. For the second paragraph of section 107 of the said Act the following paragraph shall be substituted, namely:—

"All other leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession.

Provided that the Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, direct that leases of immoveable property, other than leases from year to year, or for any term exceeding one year, or reserving a yearly rent, or any class of such leases, may be made by unregistered instrument or by oral agreement without delivery of possession."

6. In section 117 of the said Act, after the words "to be so applicable" the words "in the case of all or any of such leases" shall be inserted.

J. M. MACPHERSON,

Secretary to the Government of India.

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PART V.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 18th March, 1904, and is hereby promulgated for general information:—

ACT NO. VII OF 1904.

THE ANCIENT MONUMENTS PRESERVATION ACT, 1904.

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*The Ancient Monuments Preservation Act, 1904.**(Section 3. Ancient Monuments.—Section 4.)*

An Act to provide for the preservation of Ancient Monuments and of objects of archaeological, historical or artistic interest.

WHEREAS it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places, and for the protection and acquisition in certain cases of ancient monuments and of objects of archaeological, historical or artistic interest; It is hereby enacted as follows:—

1 (1) This Act may be called the Ancient Monuments Preservation Act, 1904.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "ancient monument" means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archaeological or artistic interest, or any remains thereof, and includes—

(a) the site of an ancient monument;

(b) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument; and

(c) the means of access to and convenient inspection of an ancient monument:

(2) "antiquities" include any moveable objects which the Government, by reason of their historical or archaeological associations, may think it necessary to protect against injury, removal or dispersion:

(3) "Commissioner" includes any officer authorized by the Local Government to perform the duties of a Commissioner under this Act:

(4) "maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto:

(5) "land" includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such estate or tenure be subject to incumbrances or not: and

(6) "owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any manager or trustee exercising powers of management over an ancient monument, and the successor in title of any such owner and the successor in office of any such manager or trustee:

Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

3. (1) The Local Government may, by notification in the local official Gazette, declare an ancient monument to be a protected monument within the meaning of this Act.

(2) A copy of every notification published under sub-section (1) shall be fixed up in a conspicuous place on or near the monument, together with an intimation that any objections to the issue of the notification received by the Local Government within one month from the date when it is so fixed up will be taken into consideration.

(3) On the expiry of the said period of one month, the Local Government, after considering the objections, if any, shall confirm or withdraw the notification.

(4) A notification published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument to which it relates is an ancient monument within the meaning of this Act.

Ancient Monuments.

4. (1) The Collector, with the sanction of the Local Government, may purchase or take a lease of any protected monument.

(2) The Collector, with the like sanction, may accept a gift or bequest of any protected monument.

(3) The owner of any protected monument may, by written instrument, constitute the Commissioner the guardian of the monument, and the Commissioner may, with the sanction of the Local Government, accept such guardianship.

(4) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Commissioner had not been constituted guardian thereof.

*The Ancient Monuments Preservation Act, 1904.**(Ancient Monuments.—Sections 5-7.)*

(5) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.

(6) Where a protected monument is without an owner, the Commissioner may assume the guardianship of the monument.

5. (1) The Collector may, with the previous sanction of the Local Government, propose to the owner to enter into an agreement with the Secretary of State for India in Council for the preservation of any protected monument in his district.

(2) An agreement under this section may provide for the following matters, or for such of them as it may be found expedient to include in the agreement:—

- (a) the maintenance of the monument;
- (b) the custody of the monument, and the duties of any person who may be employed to watch it;
- (c) the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument;
- (d) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Collector to inspect or maintain the monument;
- (e) the notice to be given to the Government in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market-value;
- (f) the payment of any expenses incurred by the owner or by the Government in connection with the preservation of the monument;
- (g) the proprietary or other rights which are to vest in His Majesty in respect of the monument when any expenses are incurred by the Government in connection with the preservation of the monument;
- (h) the appointment of an authority to decide any dispute arising out of the agreement; and
- (i) any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and the Government.

(3) An agreement under this section may be executed by the Collector on behalf of the Secretary of State for India in Council, but shall not be so executed until it has been approved by the Local Government.

(4) The terms of an agreement under this section may be altered from time to time with the sanction of the Local Government and with the consent of the owner.

(5) With the previous sanction of the Local Government, the Collector may terminate an agreement under this section on giving six months' notice in writing to the owner.

(6) The owner may terminate an agreement under this section on giving six months' notice to the Collector.

(7) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(8) Any rights acquired by Government in respect of expenses incurred in protecting or preserving a monument shall not be affected by the termination of an agreement under this section.

6. (1) If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5.

(2) In the case of village-property, the headman or other village-officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 5.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the persons on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. (1) If the Collector apprehends that the owner or occupier of a monument intends to destroy, remove, alter, deface, or imperil the monument or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 5, the Collector may make an order prohibiting any such contravention of the agreement.

(2) If an owner or other person who is bound by an agreement for the preservation or maintenance of a monument under section 5 refuses to do any act which is in the opinion of the Collector necessary to such preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Collector, the Collector may authorize any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land-revenue.

*The Ancient Monuments Preservation Act, 1904.**(Ancient Monuments.—Sections 8-13.)*

(3) A person aggrieved by an order made under this section may appeal to the Commissioner, who may cancel or modify it and whose decision shall be final.

8. Every person who purchases, at a sale for
Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.
 arrears of land-revenue or any other public demand, or at a sale made under the Bengal Patni Taluks Regulation, 1819, an estate or tenure in which is situated a monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5, and every person claiming any title to a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

VIII of 1819.

9. (1) If any owner or other person competent
Application of endowment to repair of an ancient monument.
 to enter into an agreement under section 5 for the preservation of a protected monument, refuses or fails to enter into such an agreement when proposed to him by the Collector, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Collector may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were the decree of a Civil Court.

10. (1) If the Local Government apprehends
Compulsory purchase of ancient monument.
 that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, the Local Government may proceed to acquire it under the provisions of the Land Acquisition Act, 1894, as if the preservation of a protected monument were a "public purpose" within the meaning of that Act.

of 1894.

(2) The powers of compulsory purchase conferred by sub-section (1) shall not be exercised in the case of—

- (a) any monument which or any part of which is periodically used for religious observances; or
- (b) any monument which is the subject of a subsisting agreement executed under section 5.

(3) In any case other than the cases referred to in sub-section (2) the said powers of compulsory purchase shall be exercised by the Collector or other person competent to enter into an agreement under section 5 has failed, within such reasonable period as the Collector may fix in this behalf, to enter into an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such an agreement.

11. (1) The Commissioner shall maintain
Maintenance of certain protected monuments.
 every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10.

(2) When the Commissioner has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

12. The Commissioner may receive voluntary
Voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

13. (1) A place of worship or shrine maintained by the Government
Protection of place of worship from misuse, pollution or desecration.
 under this Act shall not be used for any purpose inconsistent with its character.

(2) Where the Collector has, under section 4, purchased or taken a lease of any protected monument, or has accepted a gift or bequest, or the Commissioner has, under the same section, accepted the guardianship thereof, and such monument, or any part thereof, is periodically used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument, or such part thereof, from pollution or desecration—

- (a) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

(b) by taking such other steps as may be necessary.

The Ancient Monuments Preservation Act, 1904.

(Ancient Monuments.—Sections 14-16. Traffic in Antiquities.—Section 17).—
(Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.
—Sections 18-19.)

14. With the sanction of the Local Government, the Commissioner may—
Relinquishment of Government rights in a monument.

(a) where rights have been acquired by Government in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired; or

(b) relinquish any guardianship of a monument which he has accepted under this Act.

15. (1) Subject to such rules as may after previous publication be made by the Local Government, the public shall have a right of access to any monument maintained by the Government under this Act.
Right of access to certain protected monuments.

(2) In making any rule under sub-section (1), the Local Government may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

16. Any person other than the owner who destroys, removes, injures, alters, defaces or imperils a protected monument, and any owner who destroys, removes, injures, alters, defaces or imperils a monument maintained by Government under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (1), shall be punishable with fine which may extend to five thousand rupees, or with imprisonment which may extend to three months, or with both.
Penalties.

Traffic in Antiquities.

17. (1) If the Governor General in Council apprehends that antiquities are being sold or removed to the detriment of India or of any neighbouring country, he may, by notification in the Gazette of India, prohibit or restrict the bringing or taking by sea or by land of any antiquities or class of antiquities described in the notification into or out of British India or any specified part of British India.
Power to Governor General in Council to control traffic in antiquities.

(2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of British India or any part of British India in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) An officer of Customs, or an officer of Police of a grade not lower than Sub-Inspector, duly empowered by the Local Government in this behalf, may search any vessel, cart or other

means of conveyance, and may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section (2) are contained therein.

(5) A person who complains that the power of search mentioned in sub-section (4) has been vexatiously or improperly exercised may address his complaint to the Local Government, and the Local Government shall pass such order and may award such compensation, if any, as appears to it to be just.

Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.

18. (1) If the Local Government considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of the Government, the Local Government may, by notification in the local official Gazette, direct that any such object or any class of such objects shall not be moved unless with the written permission of the Collector.
Power to Local Government to control moving of sculptures, carvings or like objects.

(2) A person applying for the permission mentioned in sub-section (1) shall specify the object or objects which he proposes to move, and shall furnish, in regard to such object or objects, any information which the Collector may require.

(3) If the Collector refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final.

(4) Any person who moves any object in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(5) If the owner of any property proves to the satisfaction of the Local Government that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section (1), the Local Government shall either—

(a) exempt such property from the said notification;

(b) purchase such property, if it be movable, at its market-value; or

(c) pay compensation for any loss or damage sustained by the owner of such property, if it be immovable.

19. (1) If the Local Government apprehends that any object mentioned in a notification issued under section 18, sub-section (1) is in danger of loss,
Purchase of sculptures, carvings or like objects by the Government.

The Ancient Monuments Preservation Act, 1904.
(Excavations.—Section 20. General.—Sections 21-24.)

destroyed, removed, injured or allowed to fall into decay, the Local Government may pass orders for the compulsory purchase of such object at its market-value, and the Collector shall thereupon give notice to the owner of the object to be purchased.

(2) The power of compulsory purchase given by this section shall not extend to—

- (a) any image or symbol actually used for the purpose of any religious observance; or
- (b) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family.

Excavations.

20. (1) If the Local Government is of opinion that excavation within the limits of any local area ought to be restricted or regulated for the purpose of protecting or preserving any ancient monument, the Local Government may, by notification in the local official Gazette, make rules—

- (a) fixing the boundaries of the area to which the rules are to apply; and
- (b) prescribing the authority by which, and the terms on which, licenses to excavate may be granted.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) If any owner or occupier of land included in a notification under sub-section (1), proves to the satisfaction of the Local Government that he has sustained any loss by reason of such land being so included, the Local Government shall pay compensation in respect of such loss.

General.

21. (1) The market-value of any property •
 Assessment of which Government is empowered to purchase at market-value or compensation. such value under this Act, or the amount of compensation to be paid by Government in respect of anything done under this Act, shall, where any dispute arises touching the amount of such market-value or compensation, be ascertained in the manner provided by the Land Acquisition Act, 1894, sections 3, 8 to 34, 45 to 47, 51 and 52, so far as they can be made applicable; 1 of 189.

Provided that when making an inquiry under the said Land Acquisition Act, 1894, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the Collector, and one a person nominated by the owner or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

22. A Magistrate of the third class shall not have jurisdiction to try any person charged with an offence against this Act.

23. (1) The Governor General in Council or the Local Government may make rules for carrying out any of the purposes of this Act.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

24. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.

J. M. MACPHERSON,
 Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY, MARCH 30, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 24th March, 1904, and is hereby promulgated for general information:—

ACT NO. VIII OF 1904.

THE INDIAN UNIVERSITIES ACT, 1904.

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THE FIRST SCHEDULE.—*EX OFFICIO* FELLOWS OF THE UNIVERSITY.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED

*The Indian Universities Act, 1904.**(The University.—Sections 3-4. Fellows.—Section 5.)**An Act to amend the law relating to the Universities of British India.*

WHEREAS by Acts II, XXII and XXVII of 1857, Act XIX of 1882 and Act XVIII of 1887 Universities were established and incorporated at Calcutta, Bombay, Madras, Lahore and Allahabad;

And whereas by Act XLVII of 1860 the Universities of Calcutta, Madras and Bombay were empowered to confer such degrees as should be appointed in the manner provided by the Act;

And whereas by Act I of 1884 the Universities of Calcutta, Madras and Bombay were further empowered to confer the honorary degree of Doctor in the Faculty of Law,

And whereas it is expedient to amend the law relating to the Universities of British India;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Universities Act, 1904; and

(2) It shall come into force on such date as the Government may fix in this behalf by notification in the Gazette of India or the local official Gazette, as the case may be.

2. (1) This Act shall be deemed to be part of each of the Acts by which the said five Universities were respectively established and incorporated.

(2) In this Act, unless there is anything repugnant in the subject or context,—

(a) the term "College" or "affiliated College" includes any collegiate institution affiliated to or maintained by the University;

(b) the expression "the Government" means in relation to the University of Calcutta the Governor General in Council, and in relation to the other Universities the Local Government; and

(c) the expressions "the University" and "the Act of Incorporation" and any expression denoting any University, authority or officer or any statute regulation, rule or by-law of the University shall be construed with reference to each of the said Universities respectively.

The University.

3. The University shall be and shall be deemed to have been incorporated for the purpose (among others) of making provi-

erect, equip and maintain University libraries, laboratories and museums, to make regulations, relating to the residence and conduct of students, and to do all acts, consistent with the Act of Incorporation and this Act, which tend to the promotion of study and research.

4. (1) Notwithstanding anything contained in the Act of Incorporation, the Body Corporate of the University shall consist of—

(a) the Chancellor;

(b) in the case of the University of Calcutta, the Rector;

(c) the Vice-Chancellor;

(d) the *ex officio* Fellows; and

(e) the Ordinary Fellows—

(i) elected by registered Graduates or by the Senate,

(ii) elected by the Faculties, and

(iii) nominated by the Chancellor.

(2) The Ordinary Fellows shall, save as herein otherwise provided, hold office for five years:

Provided that an Ordinary Fellow who has vacated his office may, subject to the provisions of this Act, be elected or nominated to be an Ordinary Fellow.

(3) The Body Corporate shall be the Senate of the University, and all powers which are by the Act of Incorporation or by this Act conferred upon the Senate, or upon the Chancellor, Vice-Chancellor and Fellows in their corporate capacity, or, in the case of the University of Calcutta, upon the Chancellor, Rector, Vice-Chancellor and Fellows in their corporate capacity, shall be vested in, and exercised by, the Senate constituted under this Act, and all duties and liabilities imposed upon the University by the Act of Incorporation shall be deemed to be imposed upon the Body Corporate as constituted under this Act.

(4) No act done by the University shall be deemed to be invalid merely by reason of any vacancy among either class of elected Ordinary Fellows, or by reason of the total number of Ordinary Fellows or of members of the profession of education to be included among Ordinary Fellows, being less than the minimum prescribed by this Act.

Fellows.

5. (1) Notwithstanding anything contained in the Act of Incorporation, the persons for the time being performing the duties of the offices mentioned in the list contained in the first schedule

*The Indian Universities Act, 1904.**(Fellows.—Sections 6-11.)*

(2) The Government may, by notification published in the Gazette of India or in the local official Gazette, as the case may be, make additions to, or alterations in, the list of offices contained in the said schedule:

Provided that the number of *ex officio* Fellows shall not exceed ten.

6. (1) In the case of the Universities of Calcutta, Bombay and Madras, the number of Ordinary Fellows shall not be less than fifty nor exceed one hundred; and of such number—

- (a) ten shall be elected by registered Graduates;
- (b) ten shall be elected by the Faculties; and
- (c) the remainder shall be nominated by the Chancellor

(2) In the case of the Universities of the Punjab and Allahabad, the number of Ordinary Fellows shall not be less than forty nor exceed seventy-five; and of such number—

- (a) ten shall be elected by the Senate or by registered Graduates;
- (b) five shall be elected by the Faculties; and
- (c) the remainder shall be nominated by the Chancellor.

(3) The election of any Ordinary Fellow shall be subject to the approval of the Chancellor.

(4) Elections of Ordinary Fellows by the Faculties and nominations of such Fellows by the Chancellor under this section shall be made in such manner as to secure that not less than two-fifths of the Fellows so elected and so nominated respectively shall be persons following the profession of education.

7. (1) Once in every year, on such date as the Chancellor may appoint, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by registered Graduates.

(2) The Syndicate shall maintain a register on which any Graduate who—

- (a) has taken the degree of Doctor or Master in any Faculty, or
- (b) has graduated in any Faculty not less than ten years before registration,

shall, subject to the payment of an initial fee of such amount as may be prescribed by the regulations, be entitled to have his name entered upon application made within the period of three years from the commencement of this Act or of one year from the date on which he becomes so entitled:

Provided that, if such application is made after the expiry of either of the said periods, the applicant shall be entitled to have his name entered on payment of the said initial fee, and of such further sum as may be prescribed by the regulations.

(3) The name of any Graduate entered on the register shall, subject to the payment of an annual fee of such amount as may be prescribed by the regulations, be retained thereon, and, in case of default, shall be removed therefrom, but shall, at any time, be re-entered upon payment of all arrears:

Provided that a Graduate whose name has been already entered on the register may at any time compound for all subsequent payments of the annual fee by paying the sum prescribed in this behalf by the regulations.

(4) No person other than a Graduate whose name is entered on the said register shall be qualified to vote or to be elected at an election held under sub-section (1).

(5) A graduate registered under this section shall be entitled to such further privileges as may be determined by the regulations.

8. (1) The provisions of section 7 shall not apply to the University of the Punjab or to the University of Allahabad until the Chancellor, with the previous sanction of the Governor General in Council and by notification in the local official Gazette, so directs; and until such time the Ordinary Fellows of the said Universities, who would be elected by registered Graduates if the said provisions were in force, shall be elected by the Senate.

(2) In the case of the University of the Punjab and the University of Allahabad, there shall, if necessary, be an election, once in every year, on such date as the Chancellor may appoint in this behalf to fill any vacancy among the Ordinary Fellows elected by the Senate.

9. (1) Once in every year, on such date as the Election by the Chancellor may appoint, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by the Faculties.

(2) An election under sub-section (1) shall be held, subject to such directions prescribing the qualifications of the persons to be elected as may, from time to time, be given by the Chancellor, with a view to secure the return of duly qualified persons and the fair representation of different branches of study in the Senate.

10. Subject to the provisions of section 6, the Chancellor may nominate any number of fit and proper persons to be Ordinary Fellows:

11. (1) Any Ordinary Fellow may, by letter addressed to the Chancellor, resign his office.

(2) Where any Ordinary Fellow has not attended a meeting of the Senate, other than a Convocation, during the period of one year, the Chancellor may declare his office to be vacated.

*The Indian Universities Act, 1904.**(Transitory Provisions.—Section 12.)**Transitory Provisions.*

12. In their application to the election and nomination of Ordinary Fellows within the period of one year after the commencement of this Act and to the current business of the University, the provisions of this Act shall be read as subject to the following restrictions and modifications:—

Election and nomination of Ordinary Fellows within one year after commencement of Act, and temporary continuance of existing University administration.

- (a) In the case of the Universities of Calcutta, Bombay and Madras, the Chancellor shall, as soon as may be after the commencement of this Act, make an order directing that the Ordinary Fellows who under the said provisions are to be elected by registered Graduates, shall be elected by the elected Fellows holding office at the commencement of this Act, or by such Graduates of the University as the Chancellor may determine, or partly by elected Fellows and partly by such Graduates, and in such manner as the Chancellor may direct.
- (b) When the Ordinary Fellows mentioned in clause (a) have been elected, the Chancellor shall proceed to the nomination of Ordinary Fellows under section 6, sub-section (1), clause (c).
- (c) The Ordinary Fellows mentioned in clauses (a) and (b) shall, as soon as may be after their appointment and in such manner as the Chancellor may direct, elect the Fellows who under the said provisions are to be elected by the Faculties.
- (d) In the case of the Universities of the Punjab and Allahabad, the Chancellor shall, as soon as may be after the commencement of this Act, proceed to nominate Ordinary Fellows under section 6, sub-section (2), clause (c).
- (e) When Ordinary Fellows have been appointed under clause (d), the Chancellor shall make an order directing that the Fellows who under the said provisions are to be elected by the Senate, shall be elected by the Ordinary Fellows appointed under clause (d), or by elected Fellows holding office at the commencement of this Act, or partly by such Ordinary Fellows and partly by elected Fellows, in such manner as the Chancellor may direct.
- (f) The Ordinary Fellows mentioned in clauses (d) and (e) shall, as soon as may be after their appointment, and in such manner as the Chancellor may direct, elect the Fellows who under the said provisions are to be elected by the Faculties.

(g) An election under clause (e) or clause (f) shall be made subject to such directions prescribing the qualifications of the persons to be elected as may be given by the Chancellor, with a view to secure the return of duly qualified persons and a fair representation of different branches of study in the Senate.

(h) As soon as Ordinary Fellows have been nominated and elected under clauses (a), (b) and (c), or under clauses (d), (e) and (f), as the case may be, and the persons so elected have been approved by the Chancellor, the Chancellor shall declare that the Body Corporate of the University has been constituted in accordance with the provisions of this Act, and shall append to the declaration a list of the Senate, and shall forward the said declaration and the appended list to the Governor General in Council, who shall cause the declaration and list to be published in the Gazette of India.

(i) The seniority of the Fellows included in the list mentioned in clause (h) shall be determined by the order in which their names appear in the list.

(j) Until the said declaration is published under clause (h), the Fellows holding office at the commencement of this Act shall, together with the Chancellor and the Vice-Chancellor, continue to be the Senate of the University, and shall be entitled to exercise the powers conferred upon them by the Act of Incorporation.

(k) Every Ordinary Fellow elected or nominated under this section shall, unless his Fellowship is previously vacated by death, resignation or any other cause, hold office for not less than three years.

(l) At or about the end of the third year from the publication of the declaration mentioned in clause (h), the names of, as nearly as may be, one-fifth of the total initial number—

(i) of Ordinary Fellows elected under clause (a) or clause (e), as the case may be,

(ii) of Ordinary Fellows elected under clause (c) or clause (f), and

(iii) of Ordinary Fellows nominated by the Chancellor,

(after deducting from the said one-fifth the names in each class which have

The Indian Universities Act, 1904.

(Honorary Fellows.—Section 13. Faculties and Syndicate.—Sections 14-15.)

previously been removed from the list mentioned in clause (n) by reason of death, resignation or any other cause) shall be drawn by lot from among the elected and the nominated Ordinary Fellows whose names were included in the list mentioned in clause (h), and those whose names are so shown shall thereupon cease to be Ordinary Fellows.

- (m) At or about the end of the fourth, fifth and sixth years from the publication of the said declaration, the names of Ordinary Fellows shall be drawn by lot from each class of Ordinary Fellows included in the said list, in the manner provided in clause (c), so as to secure that, as nearly as may be, one-fifth of the Fellowships of the Ordinary Fellows so included in each class shall be vacated in each year.
- (n) An Ordinary Fellow elected or nominated under this section, who has not previously vacated his Fellowship, shall cease to be a Fellow at the end of the seventh year from the publication of the said declaration.
- (o) The Vice-Chancellor holding office at the commencement of this Act shall continue to hold office until the publication of the said declaration, and shall, if he is a member of the Senate as constituted under this Act, continue to hold office as Vice-Chancellor for the remainder of the term for which he was originally appointed.
- (p) The members of the Syndicate holding office at the commencement of this Act shall continue to conduct the executive business of the University until the publication of the said declaration; and, upon such publication, the Senate shall, in such manner as the Chancellor may direct, appoint a provisional Syndicate to conduct the executive business of the University until the Syndicate has been constituted under this Act.
- (q) The Senate as constituted under this Act may give orders for the provisional constitution of Faculties, Boards of Studies and of any Board or Committee of the Senate, pending the constitution of such Faculties, Boards and Committees in conformity with the regulations.
- (r) University Examiners and all officers and servants of the University shall continue to hold office and to act, subject to the conditions governing their tenure of office or employment, except in so far as such conditions may be altered by competent authority.
- (s) The statutes, regulations and by-laws of the University in force at the commencement of this Act shall continue

to be in force, except in so far as the said statutes, regulations and by-laws shall be altered or repealed by competent authority.

Honorary Fellows

- 13. (1) (a) A Fellow holding office at the commencement of this Act shall cease to be a Fellow.
- (b) Where a Fellow included in clause (a) does not become a Fellow under this Act, he shall be an Honorary Fellow for life.
- (c) Where a Fellow included in clause (a) becomes a Fellow under this Act, he shall whenever and so often as he ceases to be a Fellow under this Act, become an Honorary Fellow as provided in clause (b).
- (2) The Chancellor may nominate any person to be an Honorary Fellow for life, who is eminent for his attainments in any branch of learning, or is an eminent benefactor of the University, or is distinguished for services rendered to the cause of education generally.
- (3) Notwithstanding anything contained in this section, any Fellow who at the commencement of this Act is entitled as such to vote for the election of any person to be a member of any Council for the purpose of making laws and regulations or of any local authority shall continue to be so entitled as if this Act had not been passed.

Faculties and Syndicate

- 14. (1) Nothing contained in the Act of Incorporation shall be deemed to prohibit the constitution of a new Faculty or the abolition or reconstitution of any existing Faculty by the Senate under regulations made in accordance with the provisions of this Act.
- (2) Regulations made under sub-section (1) may
 - (a) provide for the assignment of Fellows to the several Faculties by order of the Senate; and
 - (b) empower the Fellows so assigned to add to their number, in such manner and for such period as may be prescribed, Graduates in the Faculty and other persons possessing special knowledge of the subjects of study represented by the Faculty.
- Provided that the number of persons so to be added to the Faculty shall not exceed half the number of Fellows assigned to the Faculty.
- (3) A person added to a Faculty under sub-section 2, clause (b), shall have the right to take part in the ordinary business of the Faculty, and in any election of an Ordinary Fellow by the Faculty, but shall not be entitled to take part in the election of the Syndicate.

- 15. (1) The executive government of the University shall be vested in the Syndicate, which shall consist of—

- (a) the Vice-Chancellor as Chairman,
- (b) the Director of Public Instruction for the Province in which the head-quarters of the University are situated; and, in the case of the University of Allahabad, also the Director of Public Instruction in the Central Provinces; and

*The Indian Universities Act, 1904.**(Degrees.—Sections 16-18. Affiliated Colleges.—Sections 19-21.)*

(c) not less than seven or more than fifteen *ex officio* or Ordinary Fellows elected by the Senate or by the Faculties in such manner as may be provided by the regulations, to hold office for such period as may be prescribed by the regulations.

(2) The regulations referred to in sub-section (1) shall be so framed as to secure that a number not falling short by more than one of a majority of the elected members of the Syndicate shall be Heads of, or Professors in, Colleges affiliated to the University.

(3) If in the case of any election the question is raised whether any person is or is not a Professor within the meaning of sub-section (2), the question shall be decided by the Senate.

Degrees.

16. The Senate may institute and confer Degrees, diplomas, such degrees, and grant licenses, titles and such diplomas, licenses, marks of honour, titles and marks of honour in respect of degrees and examinations as may be prescribed by regulation.

17. Where the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree and where their recommendation is supported by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the Senate may confer on such person the honorary degree so recommended without requiring him to undergo any examination.

18. Where evidence is laid before the Syndicate showing that any person on whom a degree, diploma, license, title or mark of honour conferred or granted by the Senate has been convicted of what is, in their opinion, a serious offence, the Syndicate may propose to the Senate that the degree, diploma, license, title or mark of honour be cancelled, and, if the proposal is accepted by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the degree, diploma, license, title or mark of honour shall be cancelled accordingly.

Affiliated Colleges.

19. Save on the recommendation of the Syndicate, by special order of the Senate, and subject to any regulations made in this behalf, no person shall be admitted as a candidate at any University examination, other than an examination for matriculation, unless he produces a certificate from a College affiliated

to the University, to the effect that he has completed the course of instruction prescribed by regulation.

20. Any College affiliated to the University before the passing of this Act may continue to exercise the rights conferred upon it by such affiliation, save in so far as such rights may be withdrawn or restricted in the exercise of any power conferred by the Act of Incorporation or by this Act.

21. (1) A College applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Syndicate—

- (a) that the College is to be under the management of a regularly constituted governing body;
- (b) that the qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction to be undertaken by the College;
- (c) that the buildings in which the College is to be located are suitable, and that provision will be made, in conformity with the regulations, for the residence, in the College or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical welfare of students;
- (d) that due provision has been or will be made for a library;
- (e) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the regulations for imparting instruction in that branch of science in a properly equipped laboratory or museum;
- (f) that due provision will, so far as circumstances may permit, be made for the residence of the Head of the College and some members of the teaching staff in or near the College or the place provided for the residence of students;
- (g) that the financial resources of the College are such as to make due provision for its continued maintenance;
- (h) that the affiliation of the College, having regard to the provision made for students by other Colleges in the same neighbourhood, will not be injurious to the interests of education or discipline; and
- (i) that the College rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing College in the same neighbourhood as would be injurious to the interests of education.

*The Indian Universities Act, 1904.**(Affiliated Colleges.—Sections 22-24 Regulations.—Section 25.)*

The application shall further contain an assurance that after the College is affiliated any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate.

(2) On receipt of a letter of application under sub-section (1), the Syndicate shall—

- (a) direct a local inquiry to be made by a competent person authorized by the Syndicate in this behalf;
- (b) make such further inquiry as may appear to them to be necessary; and
- (c) report to the Senate on the question whether the application should be granted or refused, either in whole or in part, embodying in such report the results of any inquiry under clauses (a) and (b).

And the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(3) The Registrar shall submit the application and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry as may appear to them to be necessary, shall grant or refuse the application or any part thereof.

(4) Where the application or any part thereof is granted, the order of the Government shall specify the courses of instruction in respect of which the College is affiliated; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(5) An application under sub-section (1) may be withdrawn at any time before an order is made under sub-section (3).

22. Where a College desires to add to the courses of instruction in respect of which it is affiliated, the procedure prescribed by section 21 shall, so far as may be, be followed.

23. (1) Every College affiliated to the University, whether before or after the commencement of this Act, shall furnish such reports, returns and other information as the Syndicate may require to enable it to judge of the efficiency of the College.

(2) The Syndicate shall cause every such College to be inspected from time to time by one or more competent persons authorized by the Syndicate in this behalf.

(3) The Syndicate may call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of any of the matters referred to in section 21, sub-section (1).

24. (1) A member of the Syndicate who intends to move that the rights conferred on any College by affiliation be withdrawn, in whole or in part, shall give notice of his motion and shall state in writing the grounds on which the motion is made.

(2) Before taking the said motion into consideration, the Syndicate shall send a copy of the notice and written statement mentioned in sub-section (1) to the Head of the College concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the College will be considered by the Syndicate:

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(3) On receipt of the representation or on expiration of the period referred to in sub-section (2), the Syndicate, after considering the notice of motion, statement and representation and after such inspection by any competent person authorized by the Syndicate in this behalf, and such further inquiry as may appear to them to be necessary, shall make a report to the Senate.

(4) On receipt of the report under sub-section (3), the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(5) The Registrar shall submit the proposal and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry (if any) as may appear to them to be necessary, shall make such order as the circumstances may, in their opinion, require.

(6) Where by an order made under sub-section (3) the rights conferred by affiliation are withdrawn, in whole or in part, the grounds for such withdrawal shall be stated in the order.

Regulations

25. (1) The Senate, with the sanction of the Government, may from time to time make regulations consistent with the Act of Incorporation as amended by this Act and with this Act to provide for all matters relating to the University.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the procedure to be followed in holding any election of Ordinary Fellows;
- (b) the constitution, reconstruction or abolition of Faculties, the proportion in which the members, other than the *ex officio* members, of the Syndicate shall be elected to represent the various Faculties, and the mode in which such election shall be conducted;
- (c) the procedure at meetings of the Senate, Syndicate and Faculties and the quorum of members to be required for the transaction of business;
- (d) the appointment of Fellows and others to be members of Boards of Studies, and the procedure of such Boards and the quorum of members to be required for the transaction of business;
- (e) the appointment and duties of the Registrar and of officers and servants of the University, and of Professors and Lecturers appointed by the University;
- (f) the appointment of Examiners, and the duties and powers of Examiners in relation to the examinations of the University;
- (g) the form of the certificate to be produced by a candidate for examination under section 19 and the conditions on which any such certificate may be granted;
- (h) the registers of Graduates and students to be kept by the University and the fee (if any) to be paid for the entry or retention of a name on any such register;

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(Regulations. --Section 26.)—(Miscellaneous.—Sections 27-29. *The First Schedule.*—*Ex officio Fellows of the University.*)

- (i) the inspection of Colleges and the reports, returns and other information to be furnished by Colleges ;
- (j) the registers of students to be kept by Colleges affiliated to the University ;
- (k) the rules to be observed and enforced by Colleges affiliated to the University in respect of the transfer of students ;
- (l) the fees to be paid in respect of the courses of instruction given by Professors or Lecturers appointed by the University ;
- (m) the residence and conduct of students ;
- (n) the courses of study to be followed and the conditions to be complied with by candidates for any University examination, other than an examination for matriculation, and for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ;
- (o) the conditions to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for the matriculation examination and the conditions to be complied with by candidates for matriculation, whether sent up by recognised schools or not ;
- (p) the conditions to be complied with by candidates, not being students of any College affiliated to the University, for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ; and
- (q) the alteration or cancellation of any rule, regulation, statute or by-law of the University in force at the commencement of this Act
26. (1) Within one year after the commencement of this Act, or within such further period as the Government may fix in this behalf,—
- New body of regulations.
- (a) the Senate as constituted under this Act shall cause a revised body of regulations to be prepared and submitted for the sanction of the Government ;
- (b) if any additions to, or alterations in, the draft submitted appear to the Government to be necessary, the Government, after consulting the Senate, may sanction the proposed body of regulations, with such additions and alterations as appear to the Government to be necessary.
- (2) Where a draft body of regulations is not submitted by the Senate within the period of one year after the commencement of this Act,
- within one year after the expiry of such period or of such further period, make regulations which shall have the same force as if they had been prepared and sanctioned under sub-section (1).

Miscellaneous.

27. The Governor General in Council may, by general or special order, define the territorial limits within which, and specify the Colleges in respect of which, any powers conferred by or under the Act of Incorporation or this Act shall be exercised.

28. (1) The Lieutenant-Governor of Bengal for the time being shall be the Rector of the University of Calcutta and shall have precedence in any Convocation of the said University next after the Chancellor and before the Vice-Chancellor.

(2) The Chancellor may delegate any power conferred upon him by the Act of Incorporation or this Act to the Rector.

29. The Acts mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

(Section 5.)

EX OFFICIO FELLOWS OF THE UNIVERSITY.

The University of Calcutta.

The Chief Justice of the High Court of Judicature at Fort William in Bengal.

The Lord Bishop of Calcutta.

The Civil Ordinary Members of the Council of the Governor General.

The Directors of Public Instruction in Bengal, Burma and Assam.

The University of Bombay.

The Chief Justice of the High Court of Judicature at Bombay.

The Bishop of Bombay.

The Ordinary Members of the Council of the Governor of Bombay.

The Director of Public Instruction in Bombay.

The University of Madras.

The Chief Justice of the High Court of Judicature at Madras.

The Bishop of Madras.

The Ordinary Members of the Council of the

*The Indian Universities Act, 1904.**(The Second Schedule.—Enactments repealed.)**The University of the Punjab.*

The Chief Judge of the Chief Court of the Punjab.

The Bishop of Lahore.

The Director of Public Instruction in the Punjab.

The Representatives of such Chiefs (if any) of territories not comprised in British India as the Local Government may, by notification in the local official Gazette, specify in this behalf.

The University of Allahabad.

The Chief Justice of the High Court of Judicature for the North-Western Provinces.

The Bishop of Lucknow.

The Directors of Public Instruction in the United Provinces of Agra and Oudh and in the Central Provinces.

• THE SECOND SCHEDULE

(Section 29.)

ENACTMENTS REPEALED.

Year.	No.	Short title	Extent of repeal
1857	II	The Calcutta University Act, 1857.	In section 2, the word "said", wherever it occurs. In section 3, the first sentence and the words "Provided that". In section 5, the words "in the Calcutta Gazette". Section 6. Section 8, except the first sentence. Sections 9, 10, 11, 12, 13 and 14.
"	XXII	The Bombay University Act, 1857.	In section 2, the word "said", wherever it occurs. In section 3, the first sentence and the words "Provided that". Section 6. Section 8, except the first sentence. Sections 9, 10, 11, 12, 13 and 14.
"	XXVII	The Madras University Act, 1857.	In section 2, the word "said", wherever it occurs. In section 3, the first sentence and the words "Provided that". Section 6. Section 8, except the first sentence. Sections 9, 10, 11, 12, 13 and 14.

THE SECOND SCHEDULE.—*contd.*

Year.	No.	Short title.	Extent of repeal.
1860	XLVII	The Indian Universities (Degrees) Act, 1860.	The whole Act.
1882	XIX	The Punjab University Act, 1882	Section 6. In section 7, sub-section (1). In section 8, in sub-section (1), the words after the word "Fellow" to the end of the sub-section and in sub-section (2), the words from the word "appointed" to the words "this Act". In section 9, the words "under this Act". Sections 10 and 11. Section 12, except the last paragraph. Sections 13, 14, 15, 16 and 18. In section 20, the words "made or", "section six, clauses (b) and (c), and" and "under sections fourteen, fifteen and sixteen". In the Schedule, Part I.
1884	I	The Indian Universities (Honorary Degrees) Act, 1884.	The whole Act.
1887	XVIII	The Allahabad University Act, 1887.	Section 5. In section 6, sub-section (1). In section 7, sub-section (1), and in sub-section (2), the words after the word "Fellow" to the end of the sub-section. Sections 10, 11, 12, 13, 14, 15 and 17. In section 20, the words and figures "appointments made and", "under section 5, sub-section (1), clauses (b) and (c)", "under sections 14 and 15" and "under section 17". In the Schedule Part I.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 25th March, 1904, and is hereby promulgated for general information:—

ACT NO. IX OF 1904.

THE MADRAS COAST-LIGHTS ACT, 1904.

CONTENTS.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Imposition of coast-light dues.
4. Collection of coast-light dues, and grant of receipt therefor.
5. Master to report arrival of vessel.
6. Ascertainment of tonnage.
7. Recovery of coast-light dues, expenses and costs.
8. No port-clearance to be granted until coast-light dues, expenses and costs are paid.
9. Master to specify on demand ports to or from which vessel is bound.
10. Penalty for evading payment of coast-light dues, expenses or costs.
11. Determination of dispute as to liability to pay coast-light dues, expenses or costs.
12. Saving for certain vessels.

THE SCHEDULE.

An Act to authorise the levy of dues on vessels for the provision of lights on the coast of the Presidency of Madras.

WHEREAS it is expedient to authorize the levy of dues on vessels for the provision of

lights on the coast of the Presidency of Madras; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Coast-light Act, 1904.

(2) It extends to the whole of British India.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Customs-collector" means a Customs-collector appointed under the Sea Customs Act, 1878, and includes any person appointed by the Local Government to discharge the functions of a Customs-collector under this Act; and

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(b) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships.

3. (1) For the purpose of providing lights on the coast of the Presidency of Madras, coast-light dues shall be paid in respect of every vessel of the burden of thirty tons or upwards making any such voyage as is described in the schedule.

(2) The said dues shall be paid at such rates, not exceeding those respectively specified in the schedule, as the Governor of Fort St. George in Council may, with the previous sanction of the Governor General in Council, fix by notification in the local official Gazette.

(3) The said coast-light dues shall be payable only at ports in British India other than Aden and shall be paid—

(a) in the case of a vessel clearing out of a port in British India, previous to the grant of a port-clearance; and

(b) in the case of a vessel arriving from Aden or a port outside British India at a port in British India other than Aden, immediately upon her arrival in such port;

Provided that, when coast-light dues have been paid in the case of any vessel on account of the lights in the eastern or western group,

no further coast-light dues on account of lights in the same group shall be payable in respect of that vessel for a period of thirty days from the date on which such dues were paid.

Explanation.—The coast-lights on the east coast of the Presidency of Madras shall be deemed to constitute the eastern group of coast-lights, and the coast-lights on the west coast of the said Presidency to constitute the western group of coast-lights.

4. The Customs-collector shall levy the coast-light dues payable under section 3, and shall grant to the person paying the same a receipt in writing under his hand specifying—

- (a) the port at which the coast-light dues are paid;
- (b) the amount paid;
- (c) the name, tonnage and other proper description of the vessel in respect of which the payment is made; and
- (d) the group in respect of which the coast-light dues are paid.

5. Within twenty-four hours after the arrival of a vessel in any port of a vessel in respect of which coast-light dues are payable under section 3, the master shall give notice in writing of such arrival to the Customs-collector.

6. In order to ascertain the tonnage of any vessel in respect of which coast-light dues are payable under section 3, the following rules shall be observed, namely:—

- (a) Where the vessel is registered under any law for the time being in force in British India, the Customs-collector may require the owner or master, or any other person having possession of her register, to produce such register for inspection; and, if any such owner, master or other person neglects or refuses to produce such register or otherwise to satisfy the Customs-collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punishable with fine which may extend to one hundred rupees, and the Customs collector may cause the vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master shall also be liable to pay the expenses of such measurement and ascertainment.

- (b) Where the vessel is not so registered, and the owner or master fails to satisfy the Customs-collector as to what is her true tonnage according to the mode of measurement prescribed by the law for regulating the measurement of British registered vessels for the time being in force, the Customs-collector shall cause

the vessel to be measured, and the tonnage thereof to be ascertained according to such mode as aforesaid; and in such case the owner or master shall be liable to pay the expenses of such measurement and ascertainment.

7. Where the master of any vessel refuses or neglects to pay to the Customs-collector on demand the amount of any coast-light dues or expenses payable under this Act in respect of such vessel, the Customs-collector may seize the vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

and in case any part of such dues or expenses, or of the costs of such seizure and detention, remains unpaid for the space of five days next after any seizure so made, the Customs-collector may cause the vessel or other thing so seized to be sold, and with the proceeds of the sale may satisfy the dues, expenses and costs (including the costs of sale) remaining unpaid, and shall, on demand, render the surplus (if any) to the master of the vessel.

8. The officer whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her master or some other person has paid, or secured to the satisfaction of the officer, the amount of all coast-light dues, expenses and costs payable in respect of the vessel under this Act, and of any fine imposed thereunder.

9. The master of any vessel departing from or arriving in any port in British India, other than Aden, shall, on the demand of the Customs-collector, specify to what port the vessel is bound and at what port or ports (if any) the vessel intends to call, or from what port or ports she has come.

10. Whoever, being the master of a vessel, evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, shall be punishable with fine which may extend to two hundred rupees.

11. Where any dispute arises as to whether any coast-light dues, expenses or costs are payable in respect of any vessel under this Act, or as to the amount of such dues, expenses or costs, the dispute shall, on application made in that behalf by either of the disputing parties, be heard and determined, in the Presidency-towns of Calcutta, Madras and Bombay, by a Presidency Magistrate, and, elsewhere, by any Magistrate exercising at the place where the dispute arises powers not less than those of a Magistrate of the second class; and the decision of such Magistrate shall be final.

12. Nothing in this Act shall be deemed to apply to any vessel belonging to, or in the service of, His Majesty or the Government, or to any vessel of war belonging to any Foreign Prince or State.

THE SCHEDULE.

(See section 3.)

Vessels.	Maximum rate per net registered ton.
Class I.	
Steam-vessels departing from any port in the Presidency of Bombay, or from any port on the west coast of the South of India, and bound for or calling at any port on the east coast of the South of India; or <i>vice versa</i> .	9 pies on account of the western, and 9 pies on account of the eastern, group of coast-lights.
Class II.	
Steam-vessels departing from any port in the Presidency of Bombay, or from any port on the west coast of the South of India, bound for or calling at any port in India, east of the eighty-sixth meridian of Longitude E., and not calling at any port on the east coast of the South of India; or <i>vice versa</i> .	9 pies on account of the western group of coast-lights.
Class III.	
Steam-vessels departing from any port in the Presidency of Bombay, or from any port on the west coast of the South of India, and bound for or calling at any port outside India east of the seventy-eighth meridian of Longitude E.; or <i>vice versa</i> .	9 pies on account of the western group of coast-lights.
Class IV.	
Steam-vessels calling at or departing from any port on the east coast of the South of India and not included in any other class	9 pies on account of the eastern group of coast-lights.

THE SCHEDULE—*contd.*

Vessels	Maximum rate per net registered ton.
Class V.	
Steam-vessels departing from any port in the Presidency of Bombay and bound for the port of Tellicherry or for any port in the Presidency of Madras north of the port of Tellicherry, or <i>vice versa</i> .	5 pies on account of the western group of coast-lights.
Class VI.	
Steam-vessels, not included in any other class, departing from any port in the Presidency of Bombay and bound for, or calling at, any port on the west coast of the South of India south of the port of Tellicherry; or <i>vice versa</i> .	9 pies on account of the western group of coast-lights.
Class VII.	
Steam-vessels, not included in any other class, calling at more than one port on the west coast of the South of India, or at more than one port on the east coast of the South of India.	9 pies on account of the western or eastern group of coast-lights, as the case may be.
Class VIII.	
Sailing-vessels	Half the rate which would be chargeable as <i>afore-</i> said if they were steam-vessels.

For the purposes of this Schedule, the expression "South of India" means any part of India south of a line drawn from Baidur on the west, to Ganjam on the east, coast of India, and the expression "Presidency of Bomba." does not include Aden.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 25th March, 1904, and is hereby promulgated for general information:—

ACT NO. X OF 1904.

THE CO-OPERATIVE CREDIT SOCIETIES ACT, 1904.

CONTENTS.

Preliminary.

SECTIONS

1. Short title and extent.
2. Definitions.

Constitution.

3. Constitution of societies.
4. Members of society.

Registration.

5. The Registrar.
6. Registration and incorporation of societies.

Management.

7. Liability of members.
8. Disposal of profits.
9. Restriction on borrowing.
10. Restrictions on loans.
11. Deposit of society's funds.

Shares and Interests of Members.

SECTIONS.

12. Limit on capital held by member.
13. Votes of members.
14. Restrictions on transfer of share or interest.
15. Shares, etc., not liable to attachment.
16. Transfer of interest on death of member.
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19. Prior claim of society as against crops, agricultural produce, cattle implements and raw material.
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21. Audit, inspection and inquiry.
22. Mode of proof of entries in society's books.

Dissolution of a Society.

23. Dissolution.
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25. Power to exempt from income-tax, stamp-duty and registration-fees

Debts due to Government.

26. Recovery of sums due to Government.

Rules.

27. Rules.

Miscellaneous.

28. Indian Companies Act, 1882,* not to apply.
29. Special power to Local Government to register any association under Act.

*The Co-operative Credit Societies Act, 1904.**(Preliminary.—Sections 1-2. Constitution.—Sections 3-4. Registration.—Sections 5-6.)**An Act to provide for the constitution and control of Co-operative Credit Societies.*

WHEREAS it is expedient to encourage thrift, self-help and co-operation among agriculturists, artisans and persons of limited means, and for that purpose to provide for the constitution and control of co-operative credit societies; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Co-operative Credit Societies Act, 1904; and

(2) It extends to the whole of British India.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "by-law" means a rule made by a society in the exercise of any power conferred by this Act, or by any rule made under this Act;

(b) "committee" means the governing body of a society to whom the management of its affairs is entrusted;

(c) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules made under this Act;

(d) "officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules applying to any society or the by-laws thereof to give directions in regard to the business of the society;

(e) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Credit Societies under this Act; and

(f) "society" means a co-operative credit society registered under this Act.

Constitution.

3. (1) A society shall consist of ten or more persons above the age of eighteen years—

(a) residing in the same town or village or in the same group of villages, or,

(b) subject to the sanction of the Registrar, consisting of members of the same tribe, class or caste

(2) Societies shall be either rural or urban. In a rural society not less than four-fifths of the members shall be agriculturists. In an urban society not less than four-fifths of the members shall be non agriculturists.

(3) When any question arises as to whether for the purposes of this Act a person is an agriculturist or a non-agriculturist, or whether two or more villages shall be considered to form a group, or whether any person belongs to a tribe, class or caste, the question shall

be decided by the Registrar, whose decision shall be final.

Members of society. 4. The members of a society shall be—

(a) persons joining in the application mentioned in section 6, sub-section (1), and registered as a society under sub-section (2) of the same section;

(b) persons qualified in accordance with the requirements of section 3 and admitted by the society in accordance with the provisions of this Act and with the by-laws of the society;

Provided that a person so admitted shall not exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules made under this Act or the by-laws of the society.

Registration.

5. The Local Government may appoint a person to be Registrar of Co-operative Credit Societies for the Province or any portion of it.

6 (1) Any ten or more persons qualified in accordance with the requirements of section 3 and agreeing each to make such payment or acquire such interest as aforesaid, may apply to the Registrar to be registered as a rural or an urban society, as the case may be, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the proposed society as the Registrar may require.

(2) If the Registrar is satisfied that the persons proposing to form a society are qualified in accordance with the requirements of section 3 and have complied with the provisions of this Act and with the rules made thereunder, he may, if he thinks fit, register the society accordingly, and the society shall thereupon become and be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, moveable or immoveable, to enter into contracts, to institute and defend civil suits and to do all things necessary for the purposes of its constitution.

(3) Every society shall have an address, registered in accordance with the rules made under this Act, to which all notices and communications may be sent.

(4) The registered name of a society shall distinguish whether the society is rural or urban, and, if the liability of the members is limited, the word "limited" shall be added to such name.

(5) No charge shall be made for registration under this section.

The Co-operative Credit Societies Act, 1904.

(Management.—Sections 7-11. Shares and Interests of Members.—Section 12-18.)

Management.

7. The liability of each member of a society for the debts of the society shall be as follows:—

(a) in the case of a rural society, such liability shall, save with the special sanction of the Local Government, be unlimited;

(b) in the case of an urban society, such liability shall be unlimited or limited as may be provided by the by-laws or by any rules made under this Act.

8. (1) No dividend or payment on account of profits shall be paid to a member of a rural society,

Disposal of profits. but all profits made by such a society shall be carried to a fund (to be called the reserve fund):

Provided that, when such reserve fund has attained such proportion to the total of the liabilities of the society, and when the interest on loans to members has been reduced to such rates as may be determined by the by-laws or rules made under this Act, any further profits of the society, not exceeding three-fourths of the total annual profits, may be distributed to members by way of bonus.

(2) Not less than one-fourth of the profits in each year of an urban society shall be carried to a fund (to be called the reserve fund) before any dividend or payment on account of profits is paid to the members or any of them.

9. A society may receive deposits from members without restriction, but it may borrow from persons who are not members only to such extent and under such conditions as may be provided by its by-laws or by rules made under this Act.

10. (1) A society shall make no loan to any person other than a member:

Restrictions on loans. Provided that, with the consent of the Registrar, a society may make loans to a rural society.

(2) Save with the permission of the Registrar to be given by general order in the case of each society, a rural society shall not lend money on the security of moveable property.

(3) The Local Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immoveable property or any kind thereof by any society or class of societies.

11. A society may deposit its funds in the Government Savings Bank or with any banker or person acting as a banker approved for this purpose by the Registrar.

Shares and Interests of Members.

12. Where the liability of the members of a society is limited by shares, a member shall not hold more than such portion of the capital of the society, subject to a

maximum of one-fifth, as may be prescribed by any rules made under this Act:

Provided that no member of such a society shall hold more shares than represent a nominal value of one thousand rupees.

13. (1) Where the liability of the members of a society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, only have one vote as a member in the affairs of the society.

(2) Where the liability of the members of a society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws of the society.

14. (1) A member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless he has held such share or interest for one year at least

(2) The share or interest of a member in the capital of a society shall not be transferred or charged, unless to the society or to a member of the society and subject to any conditions as to maximum holding prescribed by this Act or by the by-laws or by any rules made under this Act.

15. Subject to the provisions of section 20, the share or interest of a member in the capital of a society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the Code of Civil Procedure shall be entitled to or have any claim on such share or interest.

16. On the death of a member, the society may pay to or transfer to the credit of the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, such person as may appear to the Committee to be entitled to receive the same as heir or legal representative of the deceased member a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws and all moneys due to him from the society, and the society shall thereupon be absolved from all liability in respect of such share or interest or other moneys as aforesaid.

17. The liability of a past member for the debts of the society as they existed at the time when he ceased to be a member shall continue for a period of one year from the date of his ceasing to be a member.

18. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of the society as they existed at the time of his decease.

The Co-operative Credit Societies Act, 1904.

(*Priori*) of Society's claim against a member.—Sections 19-20. Audit, Inspection and Inquiry.—Section 21.) (Audit, Inspection and Inquiry.—Section 22. Dissolution of Society.—Sections 23-24.)

Priority of Society's claim against a member.

19. Subject to any prior claim of the Government in respect of land-revenue or any money recoverable as land-revenue or of a landlord in respect of rent or any money recoverable as rent, a society shall be entitled in priority to other creditors to enforce its claim—

Prior claim of society as against crops, agricultural produce, cattle, implements and raw material.

(a) upon the crops or other agricultural produce of a member or past member at any time within a year from the date when seed or manure was advanced or money for the purchase of seed or manure was lent to such member or past member, in respect of the unpaid portion of such advance or loan;

(b) upon any cattle, agricultural or industrial implements or raw material for manufactures, supplied by the society or purchased in whole or in part with money lent by the society, in respect of the outstanding liability on account of such supply or loan.

20. A society shall have a charge upon the shares or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set-off any sum credited or payable to a member or past member in or towards payment of any such debt.

Audit, Inspection and Inquiry.
21. (1) The Registrar shall audit the accounts of each society once at least in every year.

(2) No charge shall be made in respect of any audit made under sub-section (1).

(3) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(4) The Registrar, the Collector or any person authorised in this behalf by the Registrar or the Collector may at any time inspect the books, accounts, papers and securities of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection shall require.

(5) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the Committee or of not less than one-third of the members, hold an inquiry into the constitution, working and financial condition of a society, and all officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar may require.

(6) Where an inquiry is held under sub-section (5), the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members demanding an inquiry and the officers or former officers of the society.

(7) Any sum awarded by way of costs under sub-section (6) may be recovered, on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable resides for the time being, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person.

22. A copy of any entry in a book of a society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by rules made under this Act, be received, in any suit to recover a debt due to the society, as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

Dissolution of a Society.

23. (1) If the Registrar, after holding an inquiry under section 21, sub-section (5), or on receipt of an application made by three-fourths of the members of a society, is of opinion that a society ought to be dissolved, he may cancel or may refuse to cancel the registration of the society.

(2) Any member of a society may, within two months from the date of an order made under sub-section (1), appeal from such order to the Local Government.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period. Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Local Government.

(4) Where an order made under sub-section (1) cancelling the registration of a society takes effect, the society shall cease to exist as a corporate body.

24. (1) Where the registration of a society is cancelled under section 23, the Registrar may appoint a competent person to be liquidator of the society.

(2) A liquidator appointed under sub-section (1) shall have power to institute and defend suits on behalf of the society by his name of office, and shall also have power—

(a) to sue for and recover any sums of money due to the society at the date of such cancellation;

(b) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society;

(c) to investigate all claims against the society, and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

The Co-operative Credit Societies Act, 1904.

(Exemptions from Taxation.—Section 25. Debts due to Government.—Section 26.
Rules.—Section 27.)

- (d) to determine by what persons and in what proportions the costs of the liquidation are to be borne; and
 - (e) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society.
- (3) Subject to any rules of procedure made under this Act, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided of a Civil Court under the
682. Code of Civil Procedure.
- (4) The rules may provide for an appeal to the Court of the District Judge from any order made by a liquidator under this section.
 - (5) Orders made under this section may be enforced as follows :—
 - (a) when made by a liquidator, by any Civil Court having local jurisdiction in the same manner as the decree of such Court;
 - (b) when made by the Court of the District Judge in the matter of any such appeal as aforesaid, in the same manner as a decree of such Court made in any suit pending therein.
 - (6) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect to any matter connected with the dissolution of a society under this Act.

Exemptions from Taxation.

25. (1) The Governor General in Council, by notification in the Gazette of India, may in the case of any society or class of society, remit—

- (a) the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits;
 - (b) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable;
 - (c) any fee payable under the law of registration for the time being in force.
- (2) A notification exempting any society from the fees referred to in sub-section (1), clause (c), may provide for the withdrawal of such exemption.

Debts due to Government.

26. (1) All sums due from a society or from an officer or member or past member of a society as such to the Government, including any costs awarded to the Government under section 21, sub-section (6), may be recovered in the same manner as

(2) Sums due from a society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; and, thirdly, in the case of other societies, from the members.

Rules.

27. (1) The Local Government may, for the whole or any part of the Province and for any society or class of societies, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the forms to be used in applying for the registration of a society and the procedure in the matter of such applications;
- (b) prescribe the conditions to be complied with by persons applying for registration and by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time, and the amount of payment to be made and interests to be acquired before exercising rights of membership;
- (c) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled and for the liabilities of past members;
- (d) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred;
- (e) subject to the provisions of section 12, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
- (f) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member;
- (g) prescribe the proportion to the total liabilities to be attained by the reserve fund and the rate to which interest on loans to members is to be reduced, before profits may be distributed to the members of a rural society;
- (h) regulate the manner in which capital may be raised by means of shares or debentures or otherwise;
- (i) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;
- (j) provide for the appointment, suspension and removal of the members of the committee and other officers.

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(Rules.—Section 27.) (Miscellaneous.—Sections 28-29.)

exercised and the duties to be performed by the committee and other officers;

- (A) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the sanction to be required to such making, alteration or abrogation;
- (I) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society;
- (m) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;
- (n) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;
- (o) provide for the rate at which interest may be paid on deposits, for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;
- (p) provide that any dispute touching the business of a society between members or past members of the society or persons claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision, or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators;
- (q) prescribe the conditions to be complied with by a society applying for the financial assistance of Government; and
- (r) determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the local official Gazette and on such publication shall have effect as if enacted in this Act.

(5) A copy of the rules relating to a society and of the by-laws thereof for the time being in force shall be kept open to inspection at all reasonable times free of charge at the registered address of the society.

Miscellaneous.

28. The provisions of the Indian Companies Act, 1882, shall not apply to societies registered under this Act. VI

29. (1) Notwithstanding anything contained in this Act, the Local Government may, by special order in each case, and subject to such conditions as it may impose, permit any association of not less than ten persons above the age of eighteen years to be registered as a rural or an urban society under this Act.

(2) A society so registered shall be subject to the provisions of this Act to the same extent as any other society:

Provided that the Local Government may at any time by order exempt such society from any of such provisions or may direct that they shall apply to such society with such modifications as may be specified in the order.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 25th March, 1904, and is hereby promulgated for general information:—

ACT NO. XI OF 1904.

An Act to revive and continue section 8B of the Indian Tariff Act, 1894.

WHEREAS it is expedient to revive and continue the duration of section 8B of the Indian

Tariff Act, 1894, which was added by section 2 VIII of 18 of the Indian Tariff (Amendment) Act, 1902, VIII of 1902, but expired in virtue of sub-section (2) of section 1 of the latter Act, from the thirty-first day of August, 1903; It is hereby enacted as follows:—

1. Section 8B of the Indian Tariff Act, 1894, is hereby revived and continued in force with effect from the first day of April, 1904.

2. Sub-section (2) of section 1 of the Indian Tariff (Amendment) Act, 1902, is hereby repealed.

J. M. MACPHERSON,
Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY, SEPTEMBER 21, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 9th September, 1904, and is hereby promulgated for general information:

ACT NO. XII OF 1904.

An Act further to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient further to amend the Indian Emigration Act, 1883; It is hereby enacted as follows:

1. This Act may be called the Indian Emigration (Amendment) Act, 1904.

2. In section 108 of the Indian Emigration Act, 1883, after the words "and brackets "(if any)" the words and brackets "and on payment of such fees (if any)" shall be inserted.

Insertion of new section after section 112, Act XXI of 1883.

3. After section 112 of the said Act the following section shall be inserted, namely:

"112A. (1) Notwithstanding anything hereinbefore contained, the provisions of this chapter shall also apply in the case of any port which the Governor General in Council may by notification in the Gazette of India specify in this behalf.

(2) For the purposes of the application of this chapter at any port notified under sub-section (1),—

(a) such port shall be deemed to be a port from which emigration is lawful, and

(b) such officer as the Local Government may appoint in this behalf shall be deemed to be the Protector of Emigrants."

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
 •
 LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 9th September, 1904, and is hereby promulgated for general information:

ACT NO. XIII OF 1904.

An Act further to amend the Indian Articles of War.

WHEREAS it is expedient further to amend the Indian Articles of War; It is hereby enacted as follows:

1. This Act may be called the Indian Articles of War (Amendment) Act, 1904.

2. To article 89A, sub-article (1), of the Indian Articles of War the following clause shall be added, namely:

"(e) in the case of any person subject to these Articles, who is serving out of India, not under the orders of the Commander-in-Chief in India, in any station beyond the seas as defined in section 190, clause (25), of the Army Act, the officer who convenes the court-martial or who has authority to convene such court-martial".

Repeal of part of article 91 and Second Appendix, Act V, 1869.

3. In the said Articles—

- (a) the brackets and figure "(1)" in article 91, and sub-article (2) of the same article, and
 (b) the Second Appendix,
 shall be repealed.

J. M. MACPHERSON,
 Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY, NOVEMBER 9, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 28th October, 1904, and is hereby promulgated for general information:

ACT NO. XV OF 1904.

An Act further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899; It is hereby enacted as follows:

1. (1) This Act may be called the Indian Stamp (Amendment) Act, 1904.

(2) It extends to the whole of British India, exclusive of Upper Burma, British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

2. In section 2 of the Indian Stamp Act, 1899 (hereinafter referred to as "the said Act"),—

(a) after the definition of "lease" in clause (16) the following definition shall be inserted, namely:

"(16A) "marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom;" and

(b) to the definition of "settlement" in clause (24) the following words shall be added, namely:

"and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition".

3. After section 23 of the said Act the following section shall be added, namely:

"23A. (1) Where an instrument (not being a promissory note or bill of exchange)—
Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security;

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (b) of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty."

4. In section 26 of the said Act, for the first proviso the following proviso shall be substituted, namely:

"Provided that, in the case of the lease of a mine in which royalty or a share of the produce

is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(a) when the lease has been granted by or on behalf of the Secretary of State in Council, at such amount or value as the Collector may having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the said Secretary of State in Council under the lease, or,

(b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

5. In section 29, clause (a), of the said Act, for the words and figure "No 6 (Agreement to Mortgage)" the words and figure "No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge)" shall be substituted.

6. In section 40, sub-section (1), clause (b), of the said Act, before the words "ten times the amount" the words "an amount not exceeding" shall be inserted.

7. In section 56, sub-section (1), of the said Act, after the word and figure "Chapter V" the following shall be inserted, namely:
"and under clause (a) of the first proviso to section 26".

8. In Schedule I of the said Act the following amendments shall be made, namely:

(1) for Article No. 6 the following Article shall be substituted, namely:

"6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—

(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or

(2) the pawn or pledge of moveable property,

where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;

(b) if such loan or debt is repayable not more than three months from the date of such instrument.

The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.

Half the duty payable on a Bill of Exchange [No. 13 (b)] for the amount secured.

Exemption.

Instrument of pawn or pledge of goods if unattested."

(2) in the entry immediately following Article No. 28, for the words and figure "See AGREEMENT by way of EQUITABLE MORTGAGE (No. 6)" the words and figure "See AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted;

(3) the entry "EQUITABLE MORTGAGE" following Article No. 30 shall be omitted;

(4) in Article No. 40—

(a) for the words and figure "an AGREEMENT TO MORTGAGE (No. 6)" the words and figure "an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted,

(b) from clause (b) the words "at the time of execution" shall be omitted, and

(c) the exemption "(3) Instrument of pledge or pawn of goods if unattested" shall be omitted;

(5) in Article No. 41, for the entry "Four annas" each time it occurs in the second column opposite clause (b), the entry "Two annas" shall be substituted;

(6) after Article No. 46 the following entry shall be inserted, namely:

"PAWN OR PLEDGE.—See AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)"; and

(7) in Article No. 55, after the word "instrument" the following parenthesis shall be inserted, namely:

"(not being such a release as is provided for by section 23A)."

J. M. MACPHERSON,

Secretary to the Government of India.

• GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 28th October, 1904, and is hereby promulgated for general information:

ACT NO. XVI OF 1904.

An Act to repeal certain words in the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal certain words in the Sea Customs Act, 1878; It is

hereby enacted as follows:

1. This Act may be called the Sea Customs (Amendment) Act, 1904.
Short title.
2. The words "or being a colourable imitation of", in clause (e) of section 18 (e), Act VIII, 1878, section 18 of the Sea Customs Act, 1878, as amended by section 10 of the Indian Merchandise Marks Act, 1889, are hereby repealed. IV of 1

J. M. MACPIERSON,
Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY MARCH 9, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 11th March, 1904.

NO. 2 OF 1904.

NOTE.—The figures '1875' within square brackets or the margin mean the Public Stores Act, 1875 (38 & 39 Vict., c. 25).

1 Bill to provide for the better protection of Government stores.

WHEREAS it is expedient to provide for the better protection of Government stores, It is hereby enacted as follows—

1. (1) This Act may be called the Government Stores Act, 1904.

Short title and extent

(2) It extends to the whole of British India.

2. For the purposes of this Act, unless there is anything repugnant in the subject or context,—

Definitions

(a) the expression "stores" includes movable property of every kind

(b) the expression "Government stores" means stores under the care, superintendence or control of any department of the Government;

(c) the expression "department of the Government" includes any person in the service of the Government having in his official capacity the care, superintendence or control of Government stores; and

(d) stores shall be deemed to be in the possession or keeping of any person, if he knowingly has them—

(i) in the actual possession or keeping of any other person, or

(ii) in any house, building, lodging, apartment, field or place, whether open or enclosed, and whether occupied by himself or not,

and whether they are so had for his own use or benefit or for the use or benefit of another.

3. (1) The marks described in the second column of the schedule may

Distinctive marking of Government stores

be applied, by any department of the Government, or by any officer, contractor or workman thereof, in or on any Government stores of the kinds respectively mentioned in the first column of the schedule, in order to denote that such stores are the property of His Majesty.

(2) If any person, without lawful authority (the burden of proving which authority shall lie upon him), applies any of the said marks in or on any stores, he shall be punishable with imprisonment for a term which may extend to two years.

4. If any person, with intent to destroy evidence that any stores are

Penalty for destroying or obliterating mark denoting that stores are His Majesty's property

His Majesty's property, takes out, destroys or obliterates, wholly or in part, any mark applied under section 3, sub-section (1), or any mark whatsoever denoting that any stores are His Majesty's property, he shall be punishable with imprisonment for a term which may extend to seven years.

5. Any police-officer superior in rank to a constable, who may in

Powers of search and detention

right of his office be authorized by the Local Government in this behalf, or,

within the limits of any cantonment or of any fortress, arsenal, dockyard or camp, or of any building or place in the occupation of the Government for naval, military or civil purposes, any public servant authorized in writing in this behalf by the commanding officer or by the officer in charge of any such building or place

may stop, search and detain—

(a) any vessel or vehicle in or on which there is reason to suspect that any Government stores stolen or unlawfully obtained may be found, or

(b) any person who is reasonably suspected of having in his possession, or of conveying in any manner, any Government stores reasonably suspected to have been stolen or unlawfully obtained.

1875, s. 7.]

6. If any person is charged with having in his possession or keeping or conveying any Government stores reasonably suspected of having been stolen or unlawfully obtained, and does not give an account, to the satisfaction of the Court, of how he came by such stores, he shall be punishable,—

Penalty where accused person does not satisfactorily account for possession of Government stores.

(a) if such stores are arms or component parts of arms, with imprisonment for a term which may extend to twelve months, or with fine which may extend to one thousand rupees, and,

(b) in any other case, with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees

1875, s. 9.]

7. If there is reason to believe that any stores found in the possession or keeping of—

Penalty where certain persons do not satisfactorily account for possession of stores reasonably believed to be His Majesty's property.

(a) any person in the service of the Government,

(b) any dealer in marine stores or old metal or old stores of any kind, or

(c) any pawn-broker,

have been unlawfully obtained by him, such person may be taken before a Magistrate; and, if the Magistrate sees reasonable grounds for believing that such stores are or were His Majesty's property, then, if such person does not satisfy the Court that he came lawfully by such stores, he shall be punishable,—

(a) if the stores are arms or component parts of arms, with imprisonment for a term which may extend to twelve months, or with fine which may extend to one thousand rupees, and,

(b) in any other case, with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees.

1875, s. 13; Army Act, 1900 (7).]

8. Sections 4 and 6 shall not apply to stores, of the kinds described in section 156, sub-section (1), of the Army Act, which have been issued as regimental necessaries or otherwise for any soldier or volunteer; but nothing in this section shall relieve any person from any obligation or liability to which he may be subject under any other enactment in respect of any such stores.

44 & 45 Act, c. 58.

Exemption of certain military stores from operation of sections 4 and 6.

1875, s. 8.]

9. If any person, without written permission from the Local Government or from some person authorized by the Local Government in that behalf (proof of which permission shall lie on the person accused), gathers or searches for stores,

Penalty for unlawful gathering of stores, etc., near His Majesty's vessels, etc.

or creeps, sweeps or dredges in the sea or any tidal water.—

(a) within one hundred yards from any vessel belonging to His Majesty or in His Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any moorings belonging to His Majesty or from any of His Majesty's wharves or dock, victualling or steam factory yards, or

(b) within one thousand yards from any battery or fort used for the practice of artillery, either by the royal artillery or by volunteer artillery, or


(c) in or on any part of the spaces or distances, whether covered with water or not, from time to time marked out as ranges for artillery practice for the use of His Majesty's ships, or marked out and appropriated for permanent or temporary artillery or rifle ranges,

he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees.

THE SCHEDULE.

MARKS APPROPRIATED FOR USE IN OR ON GOVERNMENT STORES.

(See section 3.)

1	2
Stores.	Marks.
Hempen cordage and wire rope.	White, black, or coloured worsted threads laid up with the yarns and the wire respectively.
Canvas, fearnought, hammocks and seamen's bags.	A blue line in a serpentine form.
Bunting	A double tape in the warp.
Candles	Blue or red cotton threads in each wick or wicks of red cotton.
Woollen and cotton goods not hereinbefore enumerated.	A red stripe lengthways, with the broad arrow, either alone or in combination with letters denoting the name of the Government or of any department of the Government or branch thereof.
Timber or metal, or any stores not hereinbefore described, whether similar to the above or not.	The name of His Majesty or of His predecessors, heirs or successors, or of the Government, or of any department of the Government or branch thereof; or the broad arrow; or a crown; or His Majesty's arms; or the sign  with the broad arrow; whether such broad arrow, crown, arms, or sign, be alone or be in combination with any such name as aforesaid, or with any letters denoting any such name.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide more effectually for the prevention, detection and punishment of thefts of Government stores. The Bill reproduces, with the necessary modifications, such of the provisions of the Public Stores Act, 1875 (38 & 39 Vict., c. 25), as are adaptable to India.

The 22nd February, 1904.

E. R. ELLES.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th March 1904 :—

NO. 3 OF 1904.

A Bill further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899, It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Stamp (Amendment) Act, 1904.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

2. In section 2, clause (17), of the Indian Stamp Act, 1899 (hereinafter referred to as "the said Act"), for the word "specified" the words "specific immoveable" shall be substituted.

3. After section 23 of the said Act the following section shall be added, namely :—

"23A. (1) Where an instrument (not being a promissory note or bill of exchange) is given, upon the occasion of the deposit of any share warrant, or stock certificate to bearer, or foreign or colonial share certificate, or any security for money transferable

by delivery, by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any registered stock or marketable security;

it shall be deemed to be an agreement or memorandum of agreement chargeable with duty under Article No. 5 of Schedule I.

"(2) A release or discharge of any such instrument shall be chargeable with the like duty and not with any *ad valorem* duty."

4. In section 26 of the said Act, for the first proviso the following provision shall be substituted, namely :—

"Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(a) when the lease has been granted by the Secretary of State in Council, at such amount as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty to the said Secretary of State in Council under the lease, or,

(b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

5. In section 29, clause (a), of the said Act, for the parenthesis "(Agreement to mortgage)" the parenthesis "(Agreement to secure loan by deposit of valuable security)" shall be substituted.

6. (2) For Article No. 6 of the first schedule to the said Act the following Article shall be substituted, namely:—

"6 AGREEMENT to secure money advanced or to be advanced by way of loan, or an existing or future debt, (1) by the deposit of title-deeds or other valuable security (not being stock or a marketable security), or (2) by the hypothecation, pawn, or pledge of moveable property,—

(a) when such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;

(b) when such loan or debt is repayable not more than three months from the date of such instrument.

The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.

Half the duty payable on Bill of Exchange [No. 13 (b)] for the amount secured.

Exemptions.

(1) Letter of hypothecation accompanying bill of exchange.

(2) Instrument of pledge or pawn of goods if unattested."

(2) In the entry immediately following Article No. 28, and also in the entry following Article No. 30, of the said schedule, for the words "by way of **EQUITABLE MORTGAGE**" the words "to secure loan by deposit of valuable security" shall be substituted.

(3) In Article No. 40 of the said schedule, for the words and figure "an **AGREEMENT TO MORTGAGE** (No. 6)" the word "a" shall be substituted, and from the Exemption "(3) Instrument of pledge or pawn of goods if unattested" shall be omitted.

(4) In Article No. 55 of the said schedule, after the word "instrument" the following parenthesis shall be inserted, namely:—

"(not being such a release as is provided for by section 23A)."

J. M. MACPHERSON,

Secretary to the Government of India.

STATEMENT OF OBJECTS AND REASONS.

THE attention of the Government of India has been directed to the ruling of the Calcutta High Court in the case of the *Queen-Empress v. Debendra Krishna Mitter* (1900), I. L. R. 27 Cal. 587, to the effect that, unless the whole advance given under an equitable mortgage be made at the time that the instrument of hypothecation is executed, the stamp must be that of an ordinary mortgage. This decision imposes a much heavier duty on equitable mortgages than appears to have been intended; for it follows from it that the higher duty chargeable on an ordinary mortgage is leviable whenever it is sought to secure by deposit of title-deeds future advances on an existing account. Such a duty is, in view of the temporary nature of transactions of the kind indicated, excessive, and the fact that it is leviable must tend to retard the development of the system of cash credits, which has hitherto proved of great assistance to trade. It is, therefore, proposed—see clause 6 of the Bill—to amend Article No. 6 of the first schedule to the Indian Stamp Act, 1899 (11 of 1899), so as to relieve these instruments from the higher duty, and to place them all on the same footing, whether their execution is or is not simultaneous with the advances secured by them; and it is at the same time suggested—see clause 3—to follow section 23, read with section 86 (2), of the English Stamp Act of 1891 (54 & 55 Vict., c. 39), and to levy a fixed fee of eight annas only when the security deposited by way of equitable mortgage is marketable.

2. In the same connection notice has been called to various defects, doubts and anomalies in the law. *First*, no provision is at present made for the case where an equitable mortgage is executed to secure the repayment of a loan after more than one year, and the agreement in such a case is consequently liable to the duty of eight annas only under Article No. 5 of the schedule. It is proposed to amend Article No. 6 so as to impose the same stamp as that required on a document securing repayment within a year. *Secondly*, there is now no specific provision as to the duty leviable upon an instrument evidencing an equitable mortgage where the advance secured is repayable on demand, and such instruments are chargeable either with the same duty as agreements or with the duty leviable on ordinary mortgages, according as the securities are deposited before or at the time of execution. It is proposed to extend the amendment of the Article so as to treat such instruments in the same manner as instruments securing repayments after more than three months. And, *thirdly*, there appears to be some doubt as to the applicability of the Article to pawns and pledges, and it is proposed to amplify it so as expressly to include such transactions, as well as hypothecations of securities. On the other hand, as misunderstanding is likely to be caused by the circumstance that the definition of "mortgage-deed" in section 2, clause (17), of the Act covers all kinds of property, while a "mortgage", as defined in section 58 of the Transfer of Property Act, 1882 (IV of 1882), is limited to immoveable property, it is proposed—see clause 2 of the Bill—to confine the definition here also to immoveable property, all "mortgages" of moveable property, whether accompanied by possession or not, being, as already indicated, brought together under Article No. 6, unless otherwise specifically provided for in the schedule.

3. Finally, the opportunity has been taken to amend the law in another direction. Under section 26 of the Act, where the value of the subject-matter of an instrument is unknown or indeterminate, the contracting parties may use their discretion as to the value of the stamp to be affixed to the instrument, but no sum can be recovered under it in excess of the amount covered by the duty actually paid. An exception is, however, made in the case of mining leases in which a royalty or share of the produce is reserved as rent. The value of the share or royalty is necessarily indeterminate in the majority of such cases, and it is, therefore, provided that, if the lease be stamped on an assumed valuation of Rs. 20,000 a year, the sum actually due under the lease may be recovered, whatever the amount may be. This provision is unsuitable in the case of mining leases granted by the Government; for the natural tendency of revenue-officers is to safeguard the interests of the Government by valuing the royalty at the figure just referred to in every case. The stamp-duty, ordinarily payable on this valuation is Rs. 200; and this constitutes an unduly heavy burden in the case of small and unproductive mines. It is proposed, therefore, by clause 4 of the Bill, to expand the section so as to provide that, where a mining lease is granted by the Government, the Collector may estimate the amount of royalty which he considers likely to be payable, and it will be sufficient if the lease is stamped in accordance with his estimate.

4. The further amendments proposed by clause 5 and sub-clauses (2), (3) and (4) of clause 6 of the Bill are purely consequential and require no explanation.

E FG LAW.

The 29th February, 1904

J. M. MACPHERSON,
Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY, MARCH 16, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 11th March, 1904:—

NO. 4 OF 1904.

A Bill to revive and continue section 8B of the Indian Tariff Act, 1894.

WHEREAS it is expedient to revive and continue the duration of section 8B of the Indian

Tariff Act, 1894, which was added by section 2 VIII of the Indian Tariff (Amendment) Act, 1902, VIII of 1902, but expired in virtue of sub-section (2) of section 1 of the latter Act, from the thirty-first day of August, 1903; It is hereby enacted as follows:—

1. Section 8 B of the Indian Tariff Act, 1894, is hereby revived and continued in force with effect from the first day of April, 1904.
Revival of section 8B, Act VIII, 1894.
2. Sub-section (2) of section 1 of the Indian Tariff (Amendment) Act, 1902, is hereby repealed.
Repeal of section 1 (2), Act VIII, 1902.

STATEMENT OF OBJECTS AND REASONS.

THE Indian Tariff Amendment Act, 1902 (VIII of 1902), was passed with the object of enabling the Government of India to countervail bounties on sugar created by private trade combinations such as *cartels*. This Act expired on the 31st of August, 1903, but the Government of India were empowered by the Indian Tariff Amendment Act, 1903 (XII of 1903), to continue to levy the duties chargeable under the former amending Act until the 31st of March, 1904.

The object of the present Bill is to enable the Government of India to continue to levy special duties after that date on sugar imported from countries which, by maintaining high protective duties, render possible combinations to manipulate the price of sugar.

The 9th March, 1904.

E. FG. LAW.

J. M. MACPHERSON,
Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY, MARCH 30, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd March, 1904 :—

NO. 5 OF 1904.

[*Explanation of marginal references :—*

" 1892 " means the Military Lands Act, 1892 (55 & 56 Vict., c. 43) ;

" 1900 " means the Military Lands Act, 1900 (63 & 64 Vict., c. 56).]

A Bill to provide means for facilitating and regulating artillery and rifle practice, and for preventing danger to the public therefrom.

WHEREAS it is expedient to provide means for facilitating and regulating artillery and rifle practice and for preventing danger to the public therefrom ; It is hereby enacted as follows :—

1. This Act may be called the Artillery and Rifle Ranges Act, 1904.
Short title.

2. (1) The Governor General in Council may, after previous publication, make rules to facilitate and regulate artillery and rifle practice and to prevent danger to the public therefrom on—

(a) any land vested in His Majesty or belonging to a Volunteer Corps,

which is for the time being appropriated for such practice,

(b) any land which the Government or a Volunteer Corps has for the time being a right to use for such practice, or

(c) any sea or tidal water or shore thereof on which any land referred to in clause (a) or clause (b) abuts, or on or over which artillery or rifle practice can be carried on from any such land.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(i) provide for fixing the boundaries of the area of land, sea, tidal water or shore on or over which artillery or rifle practice may be carried on ;

(ii) declare the times within which such practice may be carried on ;

(iii) prescribe the measures to be adopted to prevent persons from entering or remaining, or carriages, animals or vessels being brought or taken, or, by the owner or any other person in charge thereof, permitted to remain, within such boundaries at such times ;

(iv) prescribe the notices to be given to the public before firing is commenced ;

(v) where it is intended to carry on artillery or rifle practice within or near the limits of any port, prescribe the notice to be given to the authorities of the port before firing is commenced ;

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|--|---|
| <p>a. 17 (vi) authorize the arrest without warrant, and the removal, of persons, and the removal of carriages, animals or vessels, entering or being found within the said boundaries at the said times; and</p> <p>(vii) prescribe the signals to be shown during such times and while firing is in progress.</p> <p>a. 2 (3) When an area to which rules made under this section apply consists of any sea or tidal water, or the shore thereof, and the boundaries of the area cannot, in the opinion of the Governor General in Council, be conveniently marked by permanent marks, those boundaries shall be described in the rules.</p> <p>1. 17 (4) Rules made under this section may declare—</p> <p>(a) that any person contravening any such rule or any order issued thereunder shall be punishable with fine which may extend to fifty rupees, and</p> | <p>(b) that any carriage, animal or vessel found within the boundaries of any area in contravention of any such rule shall, on proof of such contravention, be liable on the order of a Magistrate to be forfeited to His Majesty.</p> <p>(5) All rules made under this section shall be published in the Gazette of India and in such other manner as the Governor General in Council may direct.</p> <p>3. If any rule made under section 2 obstructs or injuriously affects the exercise of any private right of any person in or over any land, sea, tidal water or shore, such person shall be entitled to compensation, the amount of which shall, in case of difference, be ascertained in the manner provided by the Land Acquisition Act, 1894, with respect to compensation for land acquired under that Act.</p> <p>Compensation for interference with private rights. [1900. a. prov. (a).]</p> |
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STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide means for facilitating and regulating artillery and rifle practice, and for preventing danger to the public therefrom. In order that the efficiency of the Army may be maintained, it is necessary that it should be able to practise under service conditions, and this cannot be done without clear ranges. Owing to the want of proper legislative authority, however, great difficulties have been experienced in keeping ranges clear so as to sufficiently protect the public during artillery and rifle practice. The Bill is based, as is indicated by the marginal references, on certain of the provisions of the Military Lands Acts, 1892 and 1900 (55 & 56 Vict., c. 43, and 63 & 64 Vict., c. 56).

The 17th March, 1904.

E. R. ELLES.

J. M. MACPHERSON,
Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY, AUGUST 24, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 12th August, 1904:

NO. 6 OF 1904.

A Bill further to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient further to amend the Indian Emigration Act, 1883; It is hereby enacted as follows:

I. This Act may be called the Indian Emigration (Amendment) Act, 1904.
Short title.

2. In section 108 of the Indian Emigration Act, 1883, after the words XXI of Amendment of section 108, Act XXI of 1883. and brackets "(if any)" the words and brackets "and on payment of such fees (if any)" shall be inserted.

3. After section 112 of the said Act the following section shall be inserted, namely:

"112A. (1) Notwithstanding anything hereinbefore contained, the provisions of this chapter shall also apply in the case of any port which the Governor General in Council may by notification in the Gazette of India specify in this behalf.

(2) For the purposes of the application of this chapter at any port notified under sub-section (1),—

- (a) such port shall be deemed to be a port from which emigration is lawful, and
- (b) such officer as the Local Government may appoint in this behalf shall be deemed to be the Protector of Emigrants."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to remove two difficulties disclosed in the working of the new Chapter XIV, which was inserted in the Indian Emigration Act, 1883, by the Indian Emigration (Amendment) Act, 1902. In the first place, the words "terms and conditions" in section 108 do not permit the imposition of any fee on the registration of natives of India departing by sea for any of the purposes specified in section 107, similar to those levied in the case of emigrants under sections 38 and 73. In the second place, section 107 limits the power to apply the chapter to ports "from which emigration is lawful," whereas it is occasionally desirable, as in the case of Karachi, to permit departure by sea for the purposes in question from a port from which it is not expedient to allow emigration generally. The principal object in such cases is to secure adequate supervision; and this is sufficiently attained by conferring a power to appoint an officer for the performance, at the ports to which the chapter may be specially applied, of the duties which the chapter assigns, at ports "from which emigration is lawful", to the Protector of Emigrants.

The 26th July, 1904.

DENZIL IBBETSON.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 12th August, 1904:

NO. 7 OF 1904.

A Bill further to amend the Indian Articles of War.

WHEREAS it is expedient further to amend the Indian Articles of War; It is hereby enacted as follows

1. This Act may be called the Indian Articles of War (Amendment) Act, 1904.
Short title.

2. To article 89A, sub-article (1), of the Indian Articles of War the following clause shall be added, namely:

"(e) in the case of any person subject to these Articles, who is serving out of India, not under the orders of the Commander-in-Chief in India, in any station beyond the seas as defined in section 190, clause (25), of the Army Act, the officer who convenes the court-martial or who has authority to convene such court-martial".

Repeal of part of article 91 and Second Appendix, Act V, 1869.

3. In the said Articles—

- (a) the brackets and figure "(1)" in article 91 and sub-article (2) of the same article and
(b) the Second Appendix shall be repealed.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for the confirmation of findings and sentences of courts-martial in the case of persons subject to the Indian Articles of War (Act V of 1869) who are serving in any place other than India, the United Kingdom, the Channel Islands and the Isle of Man. The Government of India are advised that the power, conferred by the Army Act, section 180, sub-section (2), clause (a), to convene courts-martial does not include the power to confirm the finding. The opportunity has been utilized for repealing the Second Appendix which, at present, is not strictly in accordance with the Articles and which, with the necessary alterations, can more conveniently be, from time to time, prescribed in the exercise of the rule-making power conferred by article 190. This will be in accordance with the practice under the Army Act and obviates the necessity for legislation every time any alteration in the form for a summary general court-martial is advisable.

The 11th August, 1904.

E. R. ELLES, *Major-General.*

J. M. MACPHERSON,

Secretary to the Government of India.

The Calcutta Gazette.

PUBLISHED BY AUTHORITY.

WEDNESDAY, NOVEMBER 2, 1904.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART VI.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st October, 1904:

NO. 9 OF 1904.

A Bill to repeal certain words in the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal certain words in the Sea Customs Act, 1878; It is

hereby enacted as follows:

1. This Act may be called the Sea Customs (Amendment) Act, 1904.
Short title.

2. The words "or being a colourable imitation of", in clause (e) of section 18 (e), Act VIII, 1878, section 18 of the Sea Customs Act, 1878, as amended by section 10 of the Indian Merchandise Marks Act, 1889, are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to repeal the words "or being a colourable imitation thereof" which appear in clause (e) of section 18 of the Sea Customs Act, 1878 (VIII of 1878), as amended by section 10 of the Indian Merchandise Marks Act, 1889 (IV of 1889). These words do not occur in the corresponding clause of the English law [the Merchandise Marks Act, 1887, section 16, clause (1)], and their introduction into the Indian clause appears to serve no useful purpose, while their presence has led to the erroneous supposition that the importation of goods having a name or trade mark which is a colourable imitation of a true name or mark should be allowed if the conditions imposed by clause (e) are complied with, even when the imitation is such as to bring the goods within the terms of clause (d), which absolutely prohibits the importation of goods having a counterfeit trade mark or a false trade description.

The 20th October, 1904.

E. FG. LAW.

J. M. MACPHERSON,
Secretary to the Government of India.

